

Strengthening Parliamentary Ethics: A Canadian Perspective

Remarks by Jean T. Fournier
Senate Ethics Officer, Senate of Canada
to the
Australian Public Sector Anti-Corruption Conference
Brisbane, July 29, 2009

I am honoured to have been invited to take part in this conference and to speak about the importance of ethical leadership in preventing misconduct and corruption, and in raising standards of integrity in the public sector.

This is my first time back in Australia since I left in 2004, having spent four wonderful years as Canada's High Commissioner to Australia with accreditation to seven Pacific Island countries. I had the good fortune to be here during the Sydney Olympics and the celebrations of your Centenary of Federation. I traveled extensively through Australia and made many friends. I am delighted to be back, even if only for a short period.

As well, there is an old family connection, and a personal history that I share with many Australians. I am the descendant of one of the 58 French-Canadian convicts from what is now the province of Quebec who fought against the British for parliamentary democracy. They were condemned and sentenced to be hanged, and eventually, "transported for life" to Australia in 1840. The "patriotes", as they were known, spent five years in what is now the Sydney suburb of Concord, before being pardoned and returning home. Their presence in Sydney is commemorated in the names of Canada Bay, French Bay and Exile Bay.

A monument at Cabarita Park in Concord, unveiled in 1970 by Prime Minister Trudeau, attests to their presence in Australia. Four years after my ancestor's return, in 1849, Canada was granted responsible government and men of all convictions, as it were, began to build a parliamentary democracy as we know it today. Perhaps it is this family connection that lies behind my interest and involvement in the field of parliamentary ethics.

The conference theme of "Taking responsibility, fighting complacency" is well-chosen and timely. I have no doubt that this gathering will be a significant opportunity for Australian and international delegates to network and learn about current anti-corruption measures, trends and strategies. These are issues that increasingly preoccupy us, wherever we live.

Ethical leadership is a very broad topic. I have chosen to focus my remarks on the importance of ethical leadership by parliamentarians and legislators, and, in particular, on the importance of strengthening this leadership. In our democratic societies, ethical leadership is everyone's business. But the tone must be set at the top, especially by parliamentarians who occupy such an essential place in our system of government.

Parliamentary Ethics

Questions of ethics and the conduct of public officials are as old as the origin of democracy. Political philosophers have been addressing for a very long time the questions of honesty, integrity and accountability as part of the constant striving for further perfecting democracy, not only as a form of government, but also as a way of life. But if the importance of ethical leadership is so universally recognized, why is it that ethics is in such a terrible state today? Most people are dismayed with the state of affairs. They are sick of the deception, cheating and corruption. People don't know who, or what, to trust. Few institutions or professions have escaped scandal in recent years.

There's clear evidence that parliamentarians and legislators everywhere are held in low esteem and are being criticized for failing to meet appropriate standards of conduct. The abuse of public position for private benefit is a global phenomenon. The British MP expenses scandal is the most recent example, involving legislators of all major political parties charging – and being routinely reimbursed – for items such as hedge-trimming, moat clearing and tennis court repairs.

A recent study undertaken for Elections Canada found the largest reason for voter decline was negative public attitudes towards politicians. The study said: "There is a widespread perception that politicians are untrustworthy, selfish, unaccountable, lack credibility, and are not true to their word."

In the United States, one survey in recent years heard from respondents that only 30% of them trusted their government to do what was right. Another found the approval rate of Congress down to 18%.

A 2008 poll which ranked Australian politicians against other occupations for trustworthiness, placed politicians 39th out of 40, ahead only of telemarketers. A similar poll in Canada produced the same result. Our politicians also finished in 39th place, just ahead of car salespeople and telemarketers. Perhaps our two countries are more alike than we think!

Of course, corrupt behaviour today is not limited just to the political world. For example, lawyers, health care professionals, law enforcement officials and accountants are just some of the professions under increasing criticism for ethical failings of various varieties. Barely a day passes without stories on corporate malfeasance, abuses of power, or executive sleight of hand or corruption. Many occupations are considering new approaches to professional discipline by either formulating or strengthening their standards of conduct.

Thus, parliamentarians and legislators are not alone in this swamp. But the climate of distrust which has affected much of society has made their difficult job of governing, of dealing with

pressure-filled situations, that much harder. Defiance has replaced deference among the general public. This has created a huge “confidence gap”, with many asking where is it likely to end?

Widespread distrust has given rise to a growing demand for improved transparency, an insistence that parliamentarians who exercise authority over us, or in our name, must answer to our expectations for higher standards.

Citizens want to know what decisions are being made, how they are being made, who holds power and how they are exercising it. Traditional forms of accountability are being questioned and a new spirit of integrity and openness is being demanded. Citizens want to know that when parliamentarians make important decisions, they are acting in the interest of those whom they are supposed to serve, and that parliamentarians should aspire to something higher as their standard for decision-making, something more than just what is legal.

There’s no question that public officials deal with many conflicting demands at the national, state, provincial and municipal levels. Theirs may be the most challenging job in our democratic society, not only politically, but ethically. For example, in our Westminster system of government, parliamentarians review and approve government legislation and spending, propose private bills, and bring their constituent’s concerns and problems to the government’s attention. Parliamentarians also fulfill a “watchdog” role by calling the government to account for its actions. They also take an active part in the work of legislative committees, hold hearings, and produce reports on a wide-range of issues of importance.

Given that service in Parliament is a public trust, parliamentarians are expected to act in the public interest *at all times*, with openness and impartiality. They cannot use their official position for personal gain, or to obtain any benefit for their family or another person or entity. Parliamentarians are expected to uphold the highest standards, so as to avoid real or apparent conflicts of interest. Moreover, they are expected to arrange their private affairs to prevent any conflicts from arising, and if a conflict of interest does arise, to resolve it in a way that promotes public confidence.

Parliamentarians are expected to conduct themselves with integrity and transparency in all areas, so the public can make informed judgments and hold them accountable for their behaviour while holding office. The ethical tone of a country is shaped by the behaviour of its parliamentarians. Ethical leadership starts with them, as the manner in which they conduct themselves influences the ethical mood in the broader society.

The Last Fifty Years

Over the last fifty years, we have witnessed significant developments around the world in the field of parliamentary ethics. For example, the U.S. Congress adopted ethics rules in the 1960’s. The Office of Government Ethics, which *inter alia* certifies the financial disclosure reports of Presidential nominees, followed in 1978. The Office of Congressional Ethics was established last year which has brought greater accountability and transparency to the ethics enforcement process of the House of Representatives. It now mandates that an independent review of alleged ethics violations be conducted by individuals who are not member of Congress.

In 1988, the French government established under legislation a “*Commission pour la Transparence financière de la vie publique*”, headed by an independent Commissioner. Its responsibilities were expanded in 1995 to include the declarations of personal assets by members of both Houses. In the United Kingdom, the House of Commons adopted a code of conduct for Members of Parliament in 1995 and appointed that year an independent Parliamentary Commissioner for Standards of the House of Commons. The House of Lords followed in 2001 with the introduction of a code of conduct for the Lords. In the Australian federal Parliament, each House has its own Register of Interests, a Registrar to administer it and a parliamentary committee to oversee and monitor it. These arrangements were established by the House of Representatives in 1984 and by the Senate in 1994.

In Canada, the country’s provinces and territories led the way beginning in 1988, establishing ethics rules and procedures for legislators in Ontario, British Columbia and Alberta, thus pioneering a Canadian model of parliamentary ethics. Parliamentarians in these provinces have been largely free of the discredit brought on by major conflict of interest revelations.

Both federal Houses in Canada lagged well behind as numerous initiatives died on the Order Paper. Discussions about introducing codes of conduct for Senators and MPs continued for three decades. In 2000, Canada’s Auditor General called on federal parliamentarians to show “ethical leadership” and adopt formal rules of conduct as other jurisdictions had done. Belatedly, the House of Commons and the Senate appointed independent ethics commissioners and adopted their own codes of conduct in 2004 and 2005 respectively.

All 15 federal, provincial and territorial legislative bodies now have independent parliamentary ethics commissioners in place to administer, interpret and apply rules regarding the proper behaviour of parliamentarians.

Much work deserving of credit has been done by parliamentarians around the world in establishing ethics regimes in recent years. Much more is required, however, to raise standards of behaviour to acceptable levels. We run the risk of self-satisfaction and complacency. Strong and timely ethical leadership is required from parliamentarians in all countries.

The responsibility to act is not with the executive, the judiciary or some other body. It clearly lies with parliamentarians. As parliamentarians “own” their ethics rules, so to speak, it is for them to demonstrate leadership and to strengthen existing legislative ethics regimes.

In the Westminster model, the practice of Parliament determining what ethics rules will apply to its members, and how they will be administered, derives from long-standing parliamentary tradition and law, going all the way back to the English Bill of Rights of 1689. In the United States, the authority of each chamber to determine its own rules and discipline its members is especially referred to in Article 1 of the United States Constitution.

There have been more and more calls to action. For example, Canadian Senator Donald H. Oliver challenged parliamentarians to make “more efforts”. He observed: “There is little doubt that there is currently considerable public cynicism towards politics and politicians... The public has also become more distrustful of politicians in general. Whether we as a group are in fact less ethical today than in the past is unclear, and perhaps irrelevant. What is essential is

that we respond to the existing climate by making more efforts than in the past to be, and to be seen to be, men and women of integrity”.

The Building Blocks

Based on my experience as Senate Ethics Officer, and my knowledge of the ethics international scene, I have identified eight distinct and interrelated elements or building blocks that together constitute a robust parliamentary ethics infrastructure.

Management guru Peter Drucker described leadership this way: “*management is doing things right, leadership is doing the right things.*” Let me share with you what I view to be the right things — the key building blocks — of a healthy and effective parliamentary ethics system.

The plan I am proposing calls for:

1. A code of conduct for parliamentarians;
2. An independent but accountable parliamentary ethics commissioner;
3. A legislative ethics committee;
4. A strong emphasis on advice and prevention;
5. A robust disclosure and registration process;
6. An investigative function with appropriate powers;
7. An external review process, and
8. Regular exchanges of best practices.

1. A clear and succinct code of conduct for parliamentarians

At the heart of any successful parliamentary ethics regime is a code of conduct which provides parliamentarians clear and consistent guidance on the standards of conduct expected of them in discharging their public duties. Although there are differences between countries and within countries, codes often include a set of broad principles combined with specific rules of conduct. The principles are the foundation of the system, the rules are the superstructure. Rules lead into procedures, the machinery required to administer these regulations. Principles, rules and procedures are essential. It is the task of the parliamentary ethics commissioners to interpret and apply the principles and rules to individual cases. Each parliamentarian’s situation must be evaluated on its own particular facts, and different circumstances will lead to different conclusions. This is one of the key challenges ethics commissioners face in discharging their responsibilities.

I want to underline the value of simplicity and conciseness in the drafting of legislative codes of conduct. Parliamentarians are very busy people with many competing demands on their time and energies. They do not have the time to delve into complicated and lengthy codes, thus the importance of succinctness. Avoid the trap of trying to stick everything in, as one can never cover all possible situations that may arise, no matter how meticulous the wordsmith. One should also avoid codes that are too wordy, too opaque and crafted in legalese not easily understood by those who have to live by them. Sunlight does not easily pass through murky waters.

In my experience, few parliamentarians take the time to become familiar with the rules where existing codes, guides and manuals are seen as overly complex. By way of illustration, the

Senate Code in Canada is based on three broad principles that emphasize the importance of integrity, impartiality and transparency to a democracy. The Code then builds on these overarching principles through an explicit set of seven rules of conduct. These rules deal with such matters as gifts and other benefits, sponsored travel, outside activities, declarations of private interests, use of influence, insider information and government contracts.

The Canadian Senate Code has 53 sections and is 307 pages long, and that's in our two official languages! By contrast, the U.S. Senate Code and Manual is over 500 pages long, consisting of detailed rules piled upon rules! It is a tome that few senators will ever attempt to navigate. Concise and clear rules are an important aspect of a sound parliamentary ethics regime.

Codes are living documents or works in progress. They are not static and must evolve. This can occasionally create tension, as some parliamentarians believe that once a code is written, it's done, and it is time to move on. A successful ethics regime will have a built-in mechanism in place from the very beginning to review the code on a regular and timely schedule. Codes mature and develop through their application; expectations evolve and adjustments are required as times and public expectations change. Citizens expect a rising level of conduct from public officials, thus there will always be more to do. Canada's former federal Ethics Counsellor, Howard R. Wilson put it this way: "What was good enough yesterday may no longer be good enough today. Today's 'business as usual' may be tomorrow's 'unacceptable'. The (ethics bar) will continue to rise and we should celebrate this."

2. An independent but accountable parliamentary ethics commissioner

The second building block of an effective parliamentary ethics regime relates to who administers the rules. That task may be assigned to an individual (or a commission) who may have a variety of titles: ethics commissioner, integrity commissioner, commissioner for standards, conflict of interest commissioner or ethics officer. The designation is not important. What is important is that the individual who is responsible for the administration, interpretation and application of the code be someone who enjoys broad support, whose judgment is respected, who has years of experience in public administration at a very high level, and is independent from executive and judiciary branches.

Taking the Canadian Senate as an example, the main responsibilities of the Senate Ethics Officer are to:

- Advise individual senators on a confidential and ongoing basis concerning their obligations under the Code and to assist them in remaining in compliance with the requirements of the Code;
- Oversee the ongoing annual disclosure process in which senators are required to disclose their financial and other interests;
- Conduct inquiries in order to determine whether a senator has complied with his or her obligations under the Code;
- Maintain a Public Registry containing information concerning the financial and other interests of senators that are required to be publicly disclosed under the Code; and
- Submit an annual report of the office's activities to the Speaker of the Senate for tabling in the Senate.

Independence

Ethics commissioners must operate independently if they are to have credibility and retain the confidence of both the public and legislators when fulfilling his duties. This independence is essential in order to ensure that ethics commissioners are free to undertake investigations and provide considered advice to parliamentarians as he sees fit, in a fully impartial and transparent manner without fear or favour, and perhaps more importantly, without the appearance of any outside influence or coercion. The independence of ethics commissioners derives from such fundamentals as the legislation creating their office, the appointment process, the security of tenure, financial autonomy and reporting relationships.

In Canada, the Senate Ethics Officer serves as an independent, non-partisan Officer of the Senate. His authority derives both from the *Parliament of Canada Act* and the Senate Code. The interpretation and application of the Code as it relates to individual senators is his sole responsibility. He is appointed by the Governor in Council after consultation with the leader of every recognized party in the Senate, and following approval of the appointment by resolution of the Senate. This method of appointment ensures that the nominee has the broadest support in the Senate, irrespective of party affiliation. The ethics officer is appointed for a renewable term of seven years and may be removed from office only for cause, by the Governor in Council, on address of the Senate.

The *Parliament of Canada Act* ensures that the Senate Ethics Officer has the control and management of the office independent of the Senate. For example, he is responsible for preparing estimates of the budget required to operate the office which is separate and distinct from the estimates of the Senate as a whole. The estimates are submitted to the Speaker of the Senate who, after considering them, transmits them to the President of the Treasury Board. They are then laid before the House of Commons with the estimates of the government for the fiscal year. The Senate Ethics Officer is also protected by a statutory immunity.

Accountability

Turning to accountability, I report to the Senate. In practice, my office has multiple lines of accountability, including to the Senate as a whole, the Speaker of the Senate, a standing committee of the Senate, and the general public.

I answer to the Senate for the overall performance of the office.

I am accountable to the Standing Committee on Conflict of Interest for Senators for the efficiency and effectiveness of the activities of my office. This Committee meets annually with me to discuss my report on the activities of the office.

I am accountable to the Senate for the financial operations of the office. The Senate may review my budget as part of the annual review of the estimates of the government. The office's financial statements are also audited every year by an external auditor and the results are tabled in the Senate as part of my annual report. Specific information regarding my hospitality and travel expenses, as well as office contracts over \$10,000, are posted on our website.

I consider myself accountable to the public as well. To this end, I submit an annual report on the office's activities to the Speaker of the Senate for tabling in the Senate. That report, as well as other relevant documents and links, are on a comprehensive and accessible website which received some 17, 000 visits last year.

Independence and accountability are important and complex relationships. They are two faces of the same coin. If one of the two faces is damaged, the whole coin is worthless. In my experience, to be effective and credible an ethics commissioner must be independent; his or her independence, in turn, requires meaningful accountability. A commissioner that has no accountability may run rogue, while a commissioner without independence will lead to a lack of legitimacy. In both cases, this will result in a lack of confidence from both citizens and parliamentarians.

3. A standing legislative ethics committee of distinguished members

Another essential element in the regulation of standards of conduct of parliamentarian is the existence of a permanent committee of the legislature which oversees the work of the commissioner and acts as the link between the legislature and the commissioner.

Taking the Canadian Senate as an example, the Standing Committee on Conflict of Interest for Senators is comprised of five members. Two are elected by secret ballot from each of the Government and Opposition caucuses, and these four elect the fifth by secret ballot.

The Committee has an important role to play with respect to any inquiries and investigations that may be undertaken under the Code. The Committee receives and reviews the investigation reports of the commissioner and recommends to the legislature any appropriate action or sanction. The legislature is then able to act on such recommendations, and exercise its constitutional right to discipline its own members by making final determinations regarding sanctions or penalties when parliamentarians have violated the provisions of the code.

Another function of the Committee is to undertake periodic comprehensive reviews of the Code and recommending changes to the Senate. In large measure then, this Committee is the conscience of the Code.

4. A strong emphasis on advice, prevention and meetings with parliamentarians

The fourth building block of an effective parliamentary ethics regime involves a strong emphasis on advice, prevention and meetings with parliamentarians. One of my primary responsibilities as Senate Ethics Officer is to advise all 105 senators, on a confidential and ongoing basis, concerning their obligations under the Code, and to assist them in remaining in compliance with its requirements.

This advice includes identifying any foreseeable real or apparent conflicts of interest and providing recommendations respecting particular courses of action that may be required to resolve any such conflicts. Some of the areas in which the Senate Ethics Officer provides advice to senators include: activities outside their official parliamentary duties, gifts or other benefits, sponsored travel, declarations of private interests, contracts or business arrangements with the federal government and disclosure requirements.

When ethics commissioners were first created in Canada, the focus, especially in the media, was on inquiries and investigations. The expectation was that this would be an ethics “Lone Ranger”, someone who would root out corruption and track down the culprits. But through experience in Canada at least, we have learned that it is, in fact, the advisory function which is essential to the success of an effective parliamentary ethics regime. It is more productive to work without a mask and silver bullets.

My counterparts in other Canadian jurisdictions all attach great importance to encouraging members to seek their advice as often as possible, especially in cases of doubt prior to taking action. There are numerous precedents of which the legislators may be unaware; there can be nuances in code interpretation. Helping parliamentarians understand all this by means of the advisory function is vital.

To quote Robert Clark, a distinguished former ethics commissioner from the province of Alberta, the role of a commissioner is “90% priest and 10% policeman”. I wholeheartedly agree and have followed a similar approach in the Senate over the last four years.

The advisory function goes hand in hand with the focus on proactive prevention, as it is far better to recognize a problem before it becomes an emergency. This investment up front, sometimes referred to as “preventative political medicine”, can prevent possible corruption and subsequent scandals, and is far preferable than having to clean up any mess afterwards.

In my experience, the most important tool in the prevention kit is the face-to-face annual meeting. There is a real need for ethics commissioners to inform and guide legislators, especially those who are new to public office. Annual personal meetings with each senator are a vital cog in the machinery for regulating standards of conduct in the Senate. Sometimes it takes more than one meeting. I found that with newly appointed senators, it sometimes can take two or three meetings to satisfactorily resolve potentially troublesome issues. Meetings are like early warning systems: they allow you to stay ahead of trends and happenings. The signals they send can be invaluable.

Some may think that completing a disclosure statement once a year is all that is required, but I suggest that this is not good enough. There is a need to establish a rapport and develop a personal relationship so that parliamentarians are comfortable dealing with the ethics commissioner, and will think about consulting with him first before acting. Once that rapport is established, some issues can be worked out through other means. I receive many requests for advice that are of a more informal nature, through telephone calls and e-mail exchanges. But no matter what the channel, assisting them in better understanding their code and how it applies in different circumstances before they act is the end goal.

Each year, my office provides on average between 200 and 300 confidential opinions and advice on matters of varying degrees of complexity, reflective of the level of trust and confidence that has developed between senators and the office. This aspect of my work occupies the largest part of my time and of many of my counterparts in other Canadian jurisdictions, more so than the investigative function which inevitably draws the greatest media attention.

This year, as in past years, there have been no allegations of impropriety against any one senator. I see a clear correlation between the number of requests for opinions and advice, and the number of inquiries that are undertaken. The more requests there are for opinions and advice, and the more that emphasis is placed on prevention and education, the less there is need for investigations and fewer allegations that senators have breached the provisions of the Code. This may explain why, in most Canadian jurisdictions, inquiries are a rare occurrence. The Canadian system is not perfect, but it has worked well for the last twenty years.

5. A robust disclosure and registration process

The rules regarding the disclosure and registration of private interests are another important building block. Their purpose is transparency. They give other parliamentarians and the public an opportunity to know about financial or other interests that could possibly influence a member's actions in his or her parliamentary duties, including interests held by family members, where appropriate. Of course, parliamentarians and their families should be afforded a reasonable expectation of privacy, and all matters that the code requires be kept confidential should be kept confidential.

The disclosure process for the Canadian Senate is a rigorous one, involving detailed forms to be filled out, the exchange of documents between my office and individual senators, and face-to-face meetings as mentioned earlier. The end result is a Public Disclosure Summary which entitles citizens to know what private interests are held by their legislators, and be assured they are taking the necessary steps to ensure that their personal interests are never placed ahead of the public interest.

Increasingly this information is available online and this should be encouraged. Canadians and Australians know what it is to live in big countries. Citizens in Perth or Vancouver should have as much easy access to this information as people in Canberra or Ottawa where the public registries are available for public inspection.

6. An investigative function with appropriate powers

The inquiry function is the sixth critical component of any effective ethics regime for parliamentarians. The focus is typically on individual breaches or allegations of breaches of the code by members.

In a perfect world, there would be no need for an investigative function. In my view, investigations should be the course of last resort. But when they are required, the manner in which they are conducted is vitally important.

Investigations need to be timely and diligent and cannot be seen as a process in which parliamentarians are investigating one another, a situation referred to as “an institutional conflict of interest” by Professor Dennis Thompson of Harvard in his classic book entitled “Ethics in Congress”. Traditional systems of self-regulation are largely discredited and no longer command public confidence. As Professor Thompson observes: “Members judging members raise reasonable doubts about the independence, fairness and accountability of the process”.

For example, in order to be effective and to ensure credibility, an ethics commissioner should be free to undertake investigations as he sees fit. He should have the ability to initiate investigations, to have his reports made public, to compel testimony or the production of documents, and to have the authority to notify the law enforcement authorities if there are reasonable grounds to believe that the member, who is the subject of the investigation, has committed an offence under an Act of Parliament such as the Criminal Code.

7. An external review process

The next building block is having an external review process to assist legislators in undertaking periodic reviews of their ethics rules and procedures.

As noted earlier, parliamentarians “own” their codes of conduct. That may be generally acceptable, but not sufficient if ethics standards are to be taken to the next level. If the negative perception of legislators by the general public is to be turned around, there needs to be a regular external review and evaluation process.

A very solid example of this third party involvement is the Committee on Standards in Public Life, also known as the Nolan Committee. It was created in 1995 in the United Kingdom, with the mandate to “examine current concerns about standards of conduct of all holders of public office...and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life”.

This is a committee comprised of what one might call “wise people” who could be privy councillors, former jurists, persons of public stature and esteemed academics, all with no agenda other than improvement. These are distinguished citizens with public policy experience who have practical views on what will work and what will not. The committee looks at the ethical standards and practices of select public bodies. There are formal hearings, open to the public, which hear views from practitioners and experts in the field being examined.

By way of illustration, the system for regulating standards of conduct in the British House of Commons has been scrutinized twice by the Committee. On the last occasion in 2002, the Committee found the fundamental structure of the system to be sound, but made a number of recommendations for strengthening the arrangements further. The House of Commons, on the recommendation of the Committee on Standards and Privileges, accepted virtually all of these recommendations which have since been implemented. The Committee has produced eleven major studies since it was first set up. The public report that flows from each review is very valuable and becomes a touchstone which the Parliamentary Ethics Commissioner or the Committee can use for the advancement and improvement of the ethics regime in place.

In Canada, we do not have an external review process. The only review I am aware of was undertaken by Professor Ian Greene of York University. In a 2005 report, he concluded that there had been a “dramatic drop” in the number of reported conflict of interest cases in provincial and territorial jurisdictions after the introduction of independent ethics commissioners and rules of conduct for parliamentarians which, as noted earlier, originated in Ontario in 1988. These findings reflect well on the performance to date of the various ethics

regimes currently in place in Canada, but leave open the question of what changes might be introduced to further strengthen the arrangements in place.

8. Regular exchanges of best practices

The final building block is the exchange of best practices between parliamentarians and ethics administrators around the world. Legislative ethics is a relatively new field. There is research already available through organizations such as the OECD, the World Bank, the UN, the Council of Europe, Transparency International and Global Integrity. An increasing number of academics are involved as well. Let us bring the best of that thinking to the forefront so that those of us involved in the administration of parliamentary ethics regimes can actively engage in the sharing of best practices. This conference, for example, is an excellent forum for that genre of knowledge transfer.

Many countries have now adopted or are in the process of adopting ethics or conflict of interest regimes for parliamentarians or legislators. Although there is no “one-size-fits-all” model, what has emerged are parliamentary ethics laws or codes that combine various elements, including codes, commissioners, committees, commissions and cops and share some or all of the following characteristics:

- Fundamental principles and values – whether explicit or implicit – that must guide the life of parliamentarians, including integrity, transparency and accountability;
- Rules of conduct regarding such matters as the furthering of private interests, the use influence, insider information, gifts and other benefits, sponsored travel, the declaration of private interests and the participation in private outside activities; and
- A disclosure process which makes available to the public information on the financial and other interests of members, spouses and partners that might reasonably be seen to compromise their personal judgement or integrity.

These developments have occurred over a remarkably short period of time. They have often been in response to political scandals, public pressure and, in developing countries, they have also involved the active encouragement of international organizations. While there are similarities between these ethics regimes and international benchmarking is a common practice, there are differences between countries, reflecting each jurisdiction’s political history, culture and values. There are even differences within countries, for example between the two houses of Congress, the House of Lords and the House of Commons, the Australian Senate and the House of Representatives and the Senate and the House of Commons in Canada, all of whom administer their own rules or codes of conduct.

The most important difference between ethics regimes are the institutional mechanisms for administering and enforcing the rules of conduct. There are two core institutional models: the self-regulatory model and the ethics commissioner model.

The self-regulatory core model, or committee model, is found in countries such as the United States and Australia. For example, both Houses of Congress have ethics committees which administer and interpret very detailed ethics rules with a strong emphasis on compliance.

Traditionally the norm for legislatures, self-regulation now raises suspicion as it involves legislators advising and investigating legislators, a process that lacks impartiality and public confidence, and is largely discredited, as noted earlier.

The other core model is the ethics commissioner model, referred to previously as the Canadian model of parliamentary ethics, where the commissioner is an independent officer of the legislature. First introduced in Canada, this model has been adopted by the House of Commons in the United Kingdom and other jurisdictions. Other countries and international organizations have also shown interest in the Canadian mode. Having an independent, non-partisan ethics officer who provides advice to members to prevent conflicts of interest before they occur and conducts independent inquiries to determine whether members are in compliance with their obligations, is arguably better than any other model I know. In my view, the ethics commissioner model brings a higher level of transparency, accountability and public trust than can reasonably be expected from any self-regulatory model or self-monitoring ethics committee. Having said that, there is much to learn and share regarding “best practices” elsewhere that allows us to take fresh knowledge and practical experience back home.

The more opportunities for exchange the better, where those of us who are called upon daily to provide guidance and counsel to legislators can discuss emerging issues and make a valuable contribution to strengthening their particular ethics regimes. This can only enhance the public’s trust in those who represent us in legislative chambers.

Closing thoughts

I believe the eight-point plan outlined in my presentation can provide parliamentarians with the right tools to meet the challenge put forward in the title of this conference: “Taking responsibility, fighting complacency”.

As creators of their own codes, parliamentarians must “take responsibility” to keep their standards current, and have in place an effective and efficient ethics administrative system. As the owners of these codes, they have to demonstrate leadership by “fighting complacency”, by pushing back against those who say everything is working just fine and no more needs to be done. They now have to ‘lift their game’ as they say on the rugby pitch. As holders of the public’s purse and trust, parliamentarians and legislators must take up this challenge. They must individually ensure that that their behaviour is beyond reproach, and collectively ensure that their ethical regimes meet increasing expectations of higher standards of conduct from public officials.

You may have seen the recent film *Frost-Nixon*, which re-created the interviews done by David Frost with a disgraced President Richard Nixon, three years after he resigned over the Watergate scandal. In the most dynamic exchange, Nixon blurts out: “When the President does it... that means that it is not illegal” Unfortunately, many citizens have come to think that is how elected officials behave, believing that the rules don’t apply to them, or that most politicians are crooks.

Deep inside we want our political leaders to succeed, and most of those who seek public office do so for all the right reasons. But once in the system there are temptations, and Lord Acton’s truism that “power tends to corrupt, and absolute power corrupts absolutely” comes into play.

A robust and dynamic ethics regime within the parliamentary or legislative precinct is a powerful vaccine for that malady.

When trust is lost at the political level, it has a ripple effect through society, a cascading disillusionment in public institutions. There is urgency to this issue. There is no shortage of current examples of misconduct by parliamentarians around the world which have undermined public confidence and which underlines the need for strong ethics regimes.

I referred earlier to the MP expense scandal in Britain where the Speaker of the Commons, who opposed transparency on lawmakers' expenses, paid a heavy price becoming the first Speaker to be forced from his post since 1695.

In Canada, a public inquiry has been hearing about envelopes filled with cash being given to a former prime minister by a foreign arms dealer. The so-called sponsorship scandal is another recent example which involved corrupt public officials awarding contracts to party-friendly ad firms, in return for little or no work, and monies were kicked back to party fundraisers in yet more envelopes stuffed with cash.

Parliamentarians everywhere need to intensify their focus on this issue. They need to enhance upon what has been accomplished over the past fifty years. There is no single easy answer, no universal remedy. But improvements in legislative ethics systems would go a long way towards repairing the trust in public officials, a trust that some would say is bruised and others would say is fractured.

Just tinkering with codes and standards will not be enough to rebuild confidence in the political establishment. It will take real and sustained leadership and exemplary behaviour from those in charge, those who are expected to set the tone, those who we count on to “walk the talk” in terms of establishing and adhering to high standards conduct.

As leaders in our field, it behooves us to indicate that high standards of behaviour are to be the norm and not the exception in our workplace. The same should hold for those with whom we may do business, and in charitable organizations we financially support or in which we volunteer. Most of all, we must demand it from those who serve in public office. Public trust and ethics in government is non-negotiable, it is a pre-requisite of decent democratic government.

A strong ethics code and its diligent enforcement can be a contributing factor to the rebuilding of public trust in our parliamentary institutions. Having said that, Parliamentarians will need to do much more if they are to address the profound concerns that are being expressed all over the world about the decline of discipline, decorum and dignity within legislative bodies at a time when confidence and respect are sorely needed, especially as governments struggle to facilitate a global economic recovery. Nothing short of radical change in the political culture may be needed to arrest the decline of public trust in government.

These are serious times which call for serious conduct. Ethics lies at the core of a successful society, and ethical leadership is one of our greatest continuing needs.

It was a fight for these parliamentary principles and honorable values which resulted in the exile of my kinsman to these shores nearly two centuries ago. Surely, my convict ancestor would expect no less of us today. Thank you for the opportunity to share these thoughts with you.