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No to Bill 101 -- An Obstacle to Participation in Political Life Withdraw this Undemocratic Bill!



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No to Bill 101 -- An Obstacle to Participation in Political Life

Withdraw this Undemocratic Bill!



On May 12 in the National Assembly, Rita de Santis, the Minister responsible for Access to Information and the Reform of Democratic Institutions, tabled Bill 101, *An Act to give effect to the Charbonneau Commission recommendations on political financing*. The Charbonneau Commission is formally known as the Commission on the Awarding and Management of Public Contracts in the Construction Industry. Speaking about the modifications brought about by the bill, the Minister declared, "We are taking all these actions in order to improve taxpayer confidence in democratic institutions."

This bill was presented five months after the Charbonneau Commission filed its report on November 24, 2015. The bill is said to have arisen from a consensus of the parties that sit on the Advisory Committee to the Chief Electoral Officer of Quebec (DGEQ) regarding

amendments to the *Elections Act*. However, only the political parties represented in the National Assembly serve on this committee and the changes they seek are aimed mainly at giving police powers to the DGEQ and entrenching the people's marginalization from the political process.

The Marxist-Leninist Party of Quebec (PMLQ) considers this bill undemocratic and calls for its withdrawal. Far from renewing democratic institutions so that everyone can participate in taking decisions on the matters that affect their lives, the bill strengthens the privileged position of the establishment parties and further excludes citizens from politics.

For the benefit of its readers and of the important discussion on the renewal of the political process, *Chantier politique* is publishing in this issue a resolution of emerging parties (i.e., those without representation in the National Assembly) and the brief of the PMLQ, filed on May 25 with the Committee on Institutions, both calling for the immediate withdrawal of the bill. The next issue of *Chantier politique* will report on the National Assembly discussions surrounding the bill.



Resolution Adopted by Political Parties Duly Registered with the Chief Electoral Officer in Relation to Bill 101

Whereas on May 12, 2016, the Minister responsible for Access to Information and the Reform of Democratic Institutions, Rita de Santis, tabled in the National Assembly Bill 101, *An Act to*

give effect to the Charbonneau Commission recommendations on political financing;

Whereas Bill 101 amends the *Election Act* and deals with political party financing;

Whereas five days later, on Tuesday, May 17, a motion was tabled in the National Assembly announcing which organizations will be invited to special hearings of the Commission on Institutions on the bill, and none of the 13 other parties not represented in the National Assembly have been invited to participate;

Whereas the fact that only one day was allocated to hearings on an issue as important as the consequences of the report of the Charbonneau Commission which revealed secret funding, embezzlement, misappropriation of public funds to powerful private interests; and that such a topic deserves more than a one-day consultation and deserves the involvement of the entire body politic in discussing the sources of corruption and how to stop it;

Whereas the modifications proposed in Bill 101, as part of "fighting corruption," amount to increasing state control over political parties, criminalizing their activities, making their lives more difficult, particularly with regard to emerging parties, and intimidating and criminalizing participation in political life of the citizens themselves;

Whereas the proposed changes to the proposed electoral law are not aimed at empowering all members of the body politic to participate in politics, whether with the right to an informed vote, the right to elect and be elected, the financing of the political process to further encourage citizens to participate in political affairs, and are a denial of the rights to conscience and organization;

We, the following political parties, demand the immediate withdrawal of Bill 101:

Hugo St-Onge, Bloc pot

Guy Boivin, Équipe autonomiste

Patricia Domingos, Parti équitable

Pierre Chénier, Marxist-Leninist Party of Quebec

Frank Malenfant, Sans parti -- Citoyens constituants



Brief of the Marxist-Leninist Party of Quebec

The Marxist-Leninist Party of Quebec (PMLQ) presented the following brief to the Committee on Institutions of the National Assembly of Quebec on May 24, 2016.

On this day following National Patriot's Day, the day that symbolizes the struggle of the Quebec nation to affirm its sovereign power to determine its own affairs and build the institutions required for the realization and defence its rights, it is worthwhile to remember that this cause lives on. In the aftermath of the crushing of the heroic rebellion of the Patriots, the British Empire subjugated the Quebec nation and imposed on it what were called democratic

institutions. To this day these institutions continue to marginalize citizens from decision-making power. This is true in the case of the National Assembly as well as the process underway for reforming the electoral law. The reforms proposed in Bill 101 currently under consideration present further obstacles to the affirmation of modern rights and modern political mechanisms. The Patriots rose up 180 years ago and sacrificed their lives for these principles. At that time, they too fought corruption, arbitrariness, the usurpation of power by private interests and faced a ruling elite that acts with impunity.

The Crisis of the Democratic Institutions

Bill 101 purports to be an *Act to give effect to the Charbonneau Commission recommendations on political financing*. That is indeed its title. The government claims that through this bill it is seeking to restore confidence in the democratic institutions. On May 12, the Minister responsible for Access to Information and the Reform of Democratic Institutions, Rita de Santis, stated that "all these gestures, we are making them in order to improve taxpayer confidence towards the democratic institutions." On May 19, during an exchange in the before the bill was adopted in principle, various deputies intervened to state that they hoped and believed that the changes made to the bill would contribute to renewed voter confidence.



This issue of voter confidence in the political institutions, or "taxpayer" confidence as the Minister calls it, is not new. It was also raised following the revelations of the Gomery Commission on the sponsorship scandal, during the proceedings of the Charbonneau Commission, while major changes were being made to the *Election Act* in 2010 (Bills 113, 14 and 118) and subsequently to the *Election Act* in 2012 (Bill 2). The issue is now raised again with Bill 101.

The facts, however, suggest that the changes contained in the present Bill 101 will not restore the credibility of the democratic institutions. The more the solutions proposed seek to enhance the state's control over political parties, the more these parties become actual state institutions and basic democratic principles -- freedom of association, the right to conscience and the right to an informed vote, the right to elect and be elected and to participate directly in governance -- are violated. The argument that seeks to justify violating democratic principles in the name of enhancing democracy is not only self-serving but ill-advised, since it clearly achieves the opposite. Assigning the Chief Electoral Officer of Quebec (DGEQ) police powers over the finances and membership of registered political parties, increasing state control over volunteers for political parties and requiring donors to name their employer when they make a financial contribution to a party -- in the name of countering corrupt practices -- are anti-democratic measures.

Such proposals discourage the citizenry from participating in political life. Even the act of supporting the party of one's choice is being brought under the control of the state. These are

acts of an anti-democratic dictatorship, not measures which favour the kind of democracy Quebeckers want.

Process

Only four of the 17 political parties duly registered with the DGEQ have been consulted on Bill 101. This raises questions about the motivation behind the Minister's stated aim to improve "confidence in democratic institutions." What interest does the Minister have in not consulting all the parties, especially since the reforms will have an impact on their activities, as well as on their members? For that reason alone the bill should be rejected. The unequal treatment of "major" and "minor" parties is already an affront to the democratic notion of fair play. This has now been notched up a peg by ignoring the existence of "minor" parties altogether based on the prejudices of those who control the National Assembly. This too violates democratic principle.

Claim to Tackle Corruption

Bill 101 claims to tackle the serious problem of corruption within the party system revealed during the Charbonneau Commission. In this regard it pretends to provide mechanisms through which the citizenry can hold elected representatives responsible and accountable.

However, Bill 101 does just the opposite. Its proposed method of "fighting corruption" is to subject the activities of political parties to a law-and-order agenda. The bill would provide the DGEQ with police powers, allowing it to interfere in the affairs of private organizations, making life more difficult for all political parties and in particular the emerging parties, and institutionalizing intimidation.

The bill in fact contains various measures that subject political parties to state control. An onerous bureaucracy is proposed which discourages anyone who would like to participate in politics by joining a party. It will also serve to intimidate those who do not want state intrusion into their private lives.

- "to avoid false volunteering," precision has been added to the definition of volunteer work, which will be scrutinized to ensure that it is carried out without compensation or other reward;
- official representatives, delegates, official agents and deputies must undergo training prepared by the DGEQ within a prescribed timeline;
- in the name of accountability, financial reports and expense returns must be signed by the party leader, candidate, deputy or, as applicable, the highest ranking official designated by the authorized party authority. They must also be accompanied by a declaration on the rules regarding financing and election expenses;
- the statute of limitations for criminal prosecution is raised from five to seven years, requiring parties to keep financial records for a longer period of time;
- the bill also introduces a criminal offence for electors who make a false declaration regarding a loan or surety. That offence is considered a corrupt electoral practice;

In addition, anyone who donates to a political party will be required not only to provide their own contact information on the contribution slip, as is currently the case, but also the contact information of their employer.

Claiming that Bill 101 is the appropriate response of the National Assembly to the

recommendations of the Charbonneau Commission makes a mockery of the Commission's four years of work and its \$44.8 million cost, paid from the public treasury. It brushes aside the expectations of the citizens of Quebec with regard to the Commission's revelations of scandal and its conclusions on the need to put an end to, among other things, the system of privilege within the political process.

The Charbonneau Commission exposed many examples of "name lending," covert financing and misappropriation of funds. These are all manifestations of corruption but not the sources of the problem. These sources may be legal practices such as lobbying, and instead of acting to ensure that the public interest is defended, the monopolies which carry out such practices are increasingly permitted to act with impunity.

In fact, the "name lending" strategy illustrates just how favourable the current arrangements are for private interests to divert public funds for their private profit. Minister de Santis confirmed this in her presentation on the bill on lobbying (Bill 56, *Lobbying Transparency Act*) when she said, "It is important to remind the population that lobbying is a legitimate activity within a democracy and that citizens have a right to know who is looking to influence elected officials and other public decision-makers."

Furthermore, the government itself is comprised of several representatives of large private monopolies and money-lending institutions and these people go back and forth between government positions and jobs within the monopolies on a continuous basis. We see corruption at the highest levels because the stakes are very high, which is why major interests are at stake in forming government. None of this is affected in the least by the reforms contained in Bill 101. These reforms merely serve to divert from the real source of corruption at this time.

Bill 101 will not in any way check the increasing demands from large private monopolies that governments divert funds from the public treasury to guarantee their profits. One of the ways this is done is through control over the political parties that form the government. When public funding is given to political parties who then use the government to take direct control over the public purse to pay the rich, the scheme becomes clear. In this regard, it should be noted that when it comes to political parties using the public treasury as if it belonged to them to pay the rich, all claims of fiscal restraint by the government disappear. Billions of dollars are lost and squandered with total impunity, without any investigation into the parties themselves and the powerful private interests which benefit. It is privilege pure and simple, and Bill 101 does not touch such corruption.

The question for the workers and the electorate as a whole today is not that individual politicians illegitimately use their power to serve private interests. This old definition of corruption has become obsolete. Today, the problem is that the ruling elite is corrupting all the organs of state power by attacking the public authority, stripping it down to the police powers. All of it serves private monopoly interests, not the interests of the citizenry. The reforms contained in Bill 101 can only be understood within this context.

Assessment of 2010 and 2012 Reforms Reveals Public Purse Money Grab

In 2010, during the debates on Bill 78, *An Act to amend the Election Act with regard to electoral representation and political party financing rules and to amend other legislative provisions*, the government claimed that bill would strengthen the democratic institutions. "To this end, it is imperative to reduce the dependence of political parties on private funding," the government said. However, corruption on the part of individuals and political parties does not exist as a consequence of "the dependence of political parties on private funding."

The PMLQ pointed out at the time that to claim this as the source of corruption "diverts attention from this inescapable fact: the law already contained penalties in the past, but they were simply not applied and individuals and parties were able to get away with it. Now the solution presented is to increase public funding to parties. Quebeckers have every reason to believe that political parties are promoting their own interests when they say, yet again, that the bill's purpose is to strengthen democratic institutions."

Bill 101 is a poor response to the recently-published review of political party financing from 2009 to 2014. The review reveals that previous reforms significantly increased the public funding of parties represented in the National Assembly. Under the pretext of eliminating corruption, the major parties are assured their funding on the basis of the state treasury.

For example, state funding for the Quebec Liberal Party (QLP), went from \$1,292,266 in 2009 to \$7,431,117 in 2014; for the Coalition Avenir Québec (CAQ) it went from \$2,400,000 in 2012 to \$5,400,423 in 2014; for the Parti Québécois (PQ) it went from \$1,021, 210 in 2009 to 6,832,045 in 2014.[1]

Note that in 2014, political parties also received public funding during the general election campaign according to the 2012 change to the electoral act on political party financing. These mechanisms for public funding of political parties also mean that all citizens and residents of Quebec contribute financially to all parties irrespective of whether they support them or not. This itself violates the right to conscience of many, but it is said to be necessary to strengthen the democratic institutions without ever being submitted to public consultation.

The increase in public funding to private entities -- which political parties are, although they act in the public domain along with many other private entities -- has not changed the problem of the marginalization of the body politic from political affairs. The law has maintained the system of privilege of the cartel parties over the electoral process. Bill 101 does not question this state of affairs. It does not address the problem of increased state control over political the parties which curtails the right to freedom of association. It does not question why political parties, which are supposed to be controlled by their members, require public funding to win an election, or why it is legitimate to take huge sums of money from the public purse to give to the so-called "major" political parties.

These practices reinforce the power and privilege of the establishment parties as well as the marginalization of emerging parties and all those who are relegated to the role of "voters." References to the citizenry as "voters" shows that the only role afforded to them is casting a ballot every four or five years. Meanwhile, the activities of political parties to encourage the participation of the citizenry in deciding the direction of the economy and deciding on political, social and cultural affairs is subjugated to the supreme goal of getting elected. Referring to the citizenry as "taxpayers," as the Minister does, shows total contempt for any notion of democracy. Bill 101 proposes no changes to enable the polity to participate more actively in political affairs as a bulwark against privilege and intrigue. It opts instead to give the DGEQ police powers.

State Control over Political Parties

Political parties are private organizations operating within the public domain. Should funding of such organizations not be the responsibility of their members, so that the members are in a position to demand accountability? It is known that fewer than 2 per cent of the population are members of political parties. Why then are they financed by public funds? Why not have electoral funding that benefits the entire population? Why not use this money to fund the process, not the parties? With these funds Elections Quebec could inform all eligible voters

about all the candidates running and other issues of public interest related to elections. This would certainly strengthen the democratic institutions beginning with the electoral process itself.

Bill 101 contributes to the concentration of power in the hands of powerful private interests who exercise power in many ways other than through election financing. It continues the trend of all electoral reforms in Quebec since the 1970s, which is to finance the parties of the rich with public money, further securing their privileges, while the citizens remain marginalized from decision-making. Today, the cartel party system ensures that 80 per cent of the funding for such parties comes from the state, and as appendages of the state they will now be accountable to the DGEQ rather than those who elected them.

Police Powers

Freedom of association and the right to conscience are, unequivocally, fundamental rights required for human beings to be able to exercise their humanity. Bill 101 violates freedom of association yet again when it requires members of political parties who want to support those parties with a financial contribution to not only identify themselves to the state, but now also provide the name of their employer when contributing.

During the May 19 debate in the National Assembly, Bernard Drainville, MNA for Marie-Victorin and spokesperson for the Official Opposition, elaborated the spirit of this amendment. "[...] the Charbonneau Commission also wanted the employer's name to be included on the donor's contribution slip. This provision, Madam President, is aimed at giving the Chief Electoral Officer even more means to eventually track down, if necessary, name lending systems. That's the basic idea, so as to give the Chief Electoral Officer additional information, or, in any case, personal information that certainly falls within the private domain, but which gives the Chief Electoral Officer the possibility of going back to visit the employer, for example, of a donor and checking with the employer that there has been no reimbursement of a contribution or that there is not, within that business, a system set up to collect several contributions of \$100 which would subsequently be reimbursed through the back door, which is of course illegal. So, with this provision then, Madam Speaker, it will be possible for the Chief Electoral Officer to quickly ascertain, without having to turn to another authority, the name of the employer of the person that made the contribution."

Two arguments are presented: (1) Information: to provide additional information to the Chief Electoral Officer that falls within the private domain, but allows the Chief Electoral Officer to go back to the employer. (2) Rapidity: the elimination of a step for the Chief Electoral Officer in finding out who the employer is. Neither point explains why this is a reasonable limit on freedom of association and the right to conscience. It is beyond belief.

As a public prosecutor, the Chief Electoral Officer has already been given direct access to Revenu Québec files on individuals without their consent. This was authorized by changes made to the electoral law in 2010 also to fight corruption and "name lending" -- a reference to a person submitting a contribution to a political party in the name of another person so as to circumvent financing laws. These further intrusions into the private lives of citizens will only increase their marginalization and exclusion and discourage their participation in political affairs. They will continue to deepen the legitimacy crisis of the democratic institutions as well as the confidence of the citizenry in them.

We also draw attention to the fact that the bill does not permit the Chief Electoral Officer to fulfill their mandate, which is to "guarantee the full exercise of electoral rights, and to promote the democratic values of Quebec society." The proposed measures as well as those put in place

since the 2010 and 2012 electoral reforms (the transmission of personal information, the oath that one is not committing fraud, the repeated demands to confirm that one is in fact a member of a party, etc.) are obstacles to anyone who wants to take part in politics, even on a basic level such as joining or supporting a registered political party. It contributes to transforming the mission of the DGEQ, slowly but surely, into one of criminalization, suspicion and acting as judge and jury.

Are we to understand this to be the meaning of "democratic values"? In the name of balancing democratic rights with the fight against corruption, the only thing achieved is to curtail democratic rights while corruption flourishes in other forms and through other means. Taking measures to affirm, not negate freedom of association, the right to conscience, an informed vote, to elect and be elected, and to participate directly in governance is what will put an end to corruption.

Conclusion

In conclusion, the PMLQ thinks this bill should be withdrawn. The objective problem that electoral reforms must tackle is empowering all members of the polity to participate in decision-making so that they can exercise control over the direction of the economy and political, social, cultural and other affairs. Reforms that do not address that problem should more accurately be called negotiation and renegotiation of the self-serving arrangements of the ruling elite to continue its domination over the political and electoral processes and maintain the political marginalization of the people. Such reforms have nothing to do with the people exercising control over the affairs of the society.

For all the reasons cited in this brief, the PMLQ calls on the people of Quebec to call on the National Assembly to withdraw Bill 101.

In our opinion, the state should under no circumstances finance private interests, and must only fund public projects. An election to public office is a public project. Electoral laws should be reformed so that all who wish to can participate in elections on an equal basis and to ensure an informed vote. Political parties can play an important role in politicizing the people and encouraging them to articulate their vision for society, but must not be financed by the public treasury. Political parties should be funded by their members whose interests they serve. Public funds must instead be used to ensure the respect of the rights of all to elect and be elected during an election. They must not be used to further enshrine privilege, let alone criminalize those seeking to participate in political life.

Note

1. Political party finance reports from 2009 to 2014, DGEQ.



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