
Funding Political Parties: Can a Fair System be Devised?

by David Payne, MNA

This article outlines Quebec's model for financing of political parties. It looks at the procedure adopted to guarantee equitable financing, examines the controls put into place to ensure the enforcement of the Act and, finally looks at the respect of the principles inherent in this model.



From time immemorial, political parties have had to seek financing in order to conduct their political activities, to recruit personnel, to rent office space, to publish their programme and to cover their election expenses. In Quebec, an old saying claims that it takes more than prayers to win an election. For years, there existed no legislative provisions relating to political financing or election expenses. The

Election Act of 1875 established the first requirements concerning the election expenses of candidates, who from that time on were required to appoint an official agent to attend to their expenses. This obligation was abolished in 1932. Beginning in 1895, the returning

officers were obliged to have published in the *Official Gazette* a statement of candidates' election expenses. This requirement remained in effect until 1926.

From 1932 to 1963, we reverted to the former situation where no legislation provided for election expenses, nor for party and candidate revenues. It goes without saying that this lack of legal supervision, especially with regard to financing, left an opening for considerable abuse. This marked an era of disguised campaign financing. During this period, significant amounts of money were regularly given to political parties or to candidates in exchange for all types of favours. Thus, it was not rare to find that the granting of government contracts or the obtention of certain positions depended on substantial sums of money being handed over to finance the party in power. This method of proceeding had an effect on the trust the electors had in the equity of the electoral system and in the probity of their elected representatives.

In 1963, the Assembly adopted a new *Election Act* to which a substantial section on election expenses was added. From then on, political parties and candidates were under the obligation to name an official agent responsible for handling election expenses. The expenses of parties and candidates were limited and it was established that the Government reimburse a portion of election expenses incurred by official agents representing candidates returned at the last election or those having obtained 20% of the votes in their electoral division.

In 1975, the first statute on political financing was adopted in Quebec. This statute ensures a form of public financing for the parties represented at the National As-

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sembly by means of an annual allowance granted by the Government. However, this statute does not in any way make reference to other sources of political financing.

The year 1977 constituted a turning point in the rehabilitation of Quebec's electoral practices. At the instigation of Prime Minister René Lévesque, who had made the commitment, the Assembly adopted a bill respecting the financing of political parties. The object of this bill was to put in place a system of financing by the people characterized by transparency. The bill, which was adopted unanimously by the five parties represented at the National Assembly following an extensive public debate, established a unique integrated system for controlling political financing and election expenses. Furthermore, by restricting political financing to the electors, the faith of the electorate in the equity of the electoral process was considerably increased.

Characteristics of the Quebec Model

The Quebec model is characterized first of all by significant support from the Government. The Government pays the authorized political parties an allowance to be used to reimburse the expenses incurred for their current administration, the propagation of their political programmes and the coordination of the political activities of their members.

The allowance is computed by dividing among the authorized parties, proportionately to the percentage of the valid votes obtained by them at the last general election, a sum equal to the product obtained by multiplying the amount of \$0.50 by the number of electors entered on the list of electors used at that election.

This allowance represent \$2.6 million dollars annually and it is paid on a monthly basis upon production to the Chief Electoral Officer of a request for payment and of vouchers indicating that the expenses were incurred by the party, as stipulated in the statute (rent, telephone, staff salary, publicity, political activities, etc). This allowance is not to be confused with the sums paid to parties represented at the Assembly in support of their parliamentary activities.

In a four-year cycle, from 1993 to 1996, the proportion of political party revenues created by the Government allowance averaged approximately 17%. This proportion fluctuated (from 11% in 1994 to 24.31% in 1996) from one year to the next, particularly since the reimbursement of election expenses and the contributions represent a greater portion of the revenues in an election year.

Political parties are also reimbursed for a portion of the cost incurred for the audit of their annual financial report, which equals 50% of this cost, to a limit of \$5500.

An additional source of public financing for parties and candidates is obtained through the reimbursement of election expenses. Indeed, the Chief Electoral Officer reimburses an amount equal to 50% of the expenses incurred and paid in conformity with the Act for each candidate who was declared elected at the current election, or who obtained at least 15% of the valid votes. The election expenses for each candidate are limited to \$1.00 per elector in the electoral division.

Political parties which obtained at least 1% of valid votes also receive a reimbursement equal to 50% of their election expenses. The election expenses for each party are limited to \$0.50 per elector for all the electoral divisions in which such party has an official candidate. Following the election and depending on the results of the vote, certain candidates are entitled to an advance on this reimbursement.

Lastly, the Government contributed financially to political financing via tax credits granted to taxpayers. The Quebec elector is given a tax incentive for his political contributions. It is in fact possible for him to obtain a non-refundable tax credit of up to \$250. This political contribution tax incentive is valid for any contribution to an authorized political entity (party, local party authority, authorized independent candidate).

Government financing aims to supplement and stabilize political party revenues, in order to avoid elected representatives becoming indebted to wealthy individuals or to companies for their election. This extensive public financing was introduced to compensate somewhat for the implementation of financing based on contributions provided strictly by electors.

Public Funding

The second characteristic of the Quebec model – and where it differs from most other models – is that only the electors may, from their own resources make contributions to parties. It is therefore prohibited for corporations (companies, unions and interest groups) to make a contribution to an authorized political entity (party, local party authority or authorized independent candidate). Such measures prevents these groups from exerting political pressure on elected representatives in exchange for the financing they could have otherwise provided them with.

In the *Election Act*, not only sums of money but also services rendered and goods furnished free of charge for political purposes are deemed to be contributions. Political parties may also obtain financing through the holding of activities, as long as the admission fee is not over \$60.00 per day. Beyond this limit, the amounts collected are deemed to be contributions. Contributions to each

political party including their constituency associations and to each of the independent candidates may not exceed \$3000 annually per elector, thus encouraging modest but diversified contributions. Financing by the people and contribution limits are at the heart of the Quebec model for political financing. This diversified financing system allows political parties to maintain their independence with relation to economic interests.

In short, no wealthy individual may donate large amounts of money to a party. No corporate body has the right to finance a political party or an independent candidate. The object of these measures is to avoid a situation in which candidates and elected representatives' hands would be tied and they would find themselves in a position of political indebtedness to someone.

Equitable Access to the Media

The Quebec model for political financing provides for equitable access to the media, both during and outside an election period, which constitutes its third characteristic.

Outside an election period, the *Election Act* stipulates that the media may make air time or space available to political parties free of charge, provided that this service be offered equitably as the quality and quantity to the political parties represented in the National Assembly and to the parties which received at least 3% of the valid votes in the last general election. The media are not obliged to make air time available to the political parties, but if they do so, it must be carried out in an equitable fashion.

Likewise, during an election period, the media may make air time or space available to party leaders or candidates free of charge, provided that this service be offered equitably as to quality and quantity to all candidates in the electoral division or to all leaders of parties represented in the National Assembly or which received at least 3% of the valid votes in the last general election.

Furthermore, in an effort to guarantee the public's right to be informed on the issues under debate during an election, so that the electors may make an informed choice, the Canadian Radio-Television and Telecommunications Commission, an independent organization charged with regulating broadcasting, issues directives to the electronic media to ensure the equitable treatment of parties and candidates during an election period. The organization thus ascertains that all parties and candidates shall be entitled to a certain amount of coverage for the presentation of their views.

The media plays an important role with regard to how the parties and candidates in contention will be perceived. They set their own rules with regard to the journalistic approach to be used, whether it be within the context of the news, public affairs programmes or de-

bates between candidates. The Quebec Press Council, whose authority is limited to making recommendations may nonetheless receive complaints from the public or from political participants.

Moreover, the *Election Act* prohibits any partisan publicity in the seven days following the day on which an election is called. This provision aims to compensate the strategic advantage that the party in power has, since the issuing of an order instituting an election is the Prime Minister's prerogative. Therefore, during this period, no person, except the Chief Electoral Officer, may broadcast or cause to be broadcast by a radio or television station or by a cable distribution enterprise, publish or cause to be published in a newspaper or other periodical, or post or cause to be posted in a space leased for that purpose, publicity relating to the election. All parties and all independent candidates are thus on an equal footing.

***Within the context of a election,
access to the media is assured for
political parties and candidates.***

The Act establishes financing regulations for the authorized entities (parties, local party authorities and authorized independent candidates) which provide candidates and parties with the financial means to be heard, thus giving candidates a chance to express their viewpoints and ultimately to be elected. The restrictions which are imposed, particularly regarding the possible sources of financing and the permitted election expenses (which are limited to \$0.50 per elector for a party and to \$1.00 per elector for each candidate) aim to maintain equity between candidates in a given election.

These fixed limits on election expenses allow the parties and their candidates to know in advance the sums that they will require to undertake their campaign. This facilitates the management of their campaign budget while giving them an indication of the magnitude of the amounts they must collect.

Observers who have studied the evolution of political party financing since the implementation of this model in 1977 have noticed that the parties do manage to collect the sums necessary to conduct a campaign. According to Professor Louis Massicotte from the University of Montreal, prohibiting corporate financing is far from having led to the stifling of Quebec parties. An article written by Professor Massicotte, who studied the financing of political parties in Quebec from 1977 to 1989, indicates a certain number of general observations.¹

In 1977, when the provisions regarding political party financing were introduced, certain individuals feared that the prohibiting of contributions by corporations and

the establishing of a limit to the contributions by electors could eventually create major financing difficulties for the authorized political parties. The parties appear to have adjusted in general very well to these new rules.

The electors are, and by far, the main source of financing of political parties. Indeed, the contributions made by electors make up on the average over 60% of the authorized parties' revenues.

In light of the financial reports published annually by the Chief Electoral Officer, there are indications that in the past four years (from 1993 to 1996), average contribution made has been \$101.40. For the same period, the contributions of \$200 or less represent an average of 88.6% of the total number of contributions and 39.3% of the total amount of contributions collected.

The regulations for political financing which are in effect in Quebec allow political parties to be in closer contact with their electorate by canvassing for financing by the people.

Controls

The best of legislative provisions might be rendered useless if the organization responsible for their administration or their implementation did not have the proper control methods. The Quebec model provides for essentially four methods: the obligation for parties to produce financial reports, the disclosure of the names of persons who make contributions, the systematic examination of these reports and the authority of the Chief Electoral Officer to investigate and prosecute.

In Quebec, both the provincial political parties and their local party authorities are obliged to produce an annual financial report. Only the parties are under the obligation to produce audited financial reports. The financial reports must specifically indicate the name and address of each elector whose total contribution exceeds \$200.

These reports are closely examined by the various participants (parties, candidates, electors, media) who are most vigilant in this undertaking. Moreover, the candidates and parties exercise mutual surveillance of each of their opponents' practices.

It is very important that those involved exercise vigilance with regard to enforcing the provisions of the Act. But first and foremost, it is important that a neutral and impartial institution be equipped with efficient control methods. In Quebec, the Chief Electoral Officer possesses a power of surveillance and of control with respect to political financing and election expenses. For this purpose, among the staff are experienced auditors who carry out the examination of the reports that are submitted to them and who see to the stringent control of contributions and election expenses.

With the assistance of lawyers and investigators, the Chief Electoral Officer is regularly called upon to make inquiries, whether it be following complaints on the part of these participants or on his own initiative. When his inquiry discloses infraction, he has the authority to prosecute the offenders in court.

The decision to institute legal proceedings is based on three criteria. The Chief Electoral Officer generally decides to institute proceedings when the charges constitute a clear violation of the law, when there is sufficient evidence to ensure the successful outcome of a case and when the legal action is of an exemplary nature. When legal action is in fact undertaken, it is the responsibility of the courts to examine the evidence submitted and to rule consequently.

The Respect of Principles

The examination of the provisions regarding political financing enables us to identify the three major principles on which the Quebec model for political financing is based: pluralism, equity and transparency.

Pluralism is ensured through a party authorization system based on simple rules which allow any individual to obtain, with a minimum of restrictions, the authorization to form a political party. Thus, in order to be recognized, a political party must obtain authorization from the Chief Electoral Officer. To receive this, an application must be submitted indicating among other things the name of the party, an address to which communications must be sent, as well as the name, address and telephone number of the party's leader and of its official representative, responsible for revenues and party expenses. The application must be accompanied by the signatures of 500 electors declaring that they are members or supporters of the party and in favour of the application for authorization.

Authorization, which is required from all entities (party, local party authority or independent candidate) that wish to collect contributions or to incur election expenses, remains valid unsofar as the party discharges its debts within the six months following their receipt, pays interests on loans annually, produces the information and the reports required by the *Election Act* and presents a minimum of twenty candidates at each general election. Authorization does not in any way have anything to do with the content of the programme or the ideas upheld by a political party. The Act thus allows for the expression of a variety of opinions without undue restrictions.

The Quebec system for political party financing is also characterized by transparency, in that parties, candidates and various local party authorities must account

for their activities, by producing reports for the Chief Electoral Officer. The information contained in these reports is public information. Any person may examine these reports and make copies of them. The Chief Electoral Officer ensures access to this information, particularly by publishing an annual report containing the financial statements of parties, a summary of the financial reports of parties (including their authorities), the list of contributors having donated more than \$200 as well as various statistics on the financial situation of parties.

We have seen that equity is ensured by the financial participation of the Government, by equal access to the media, by the fact that contributions are limited and may be made only by electors, and by the restriction of election expenses.

Nevertheless, no electoral system may lay claim to flawless equity. Some of the apparent violations of the principle of equity are inherent to the very nature of the electoral system in force. The plurality vote system favours bipartisanship, whereas the proportional vote system encourages a wider range of partisan organizations.

In addition to the aforementioned characteristics of the two voting systems, there are aspects of financing which can diminish the effects of the voting system or increase them. In Quebec, experts, observers of the political scene as well as certain representatives of third parties have identified specific provisions of the Act which, in their opinion, appear to violate the principle of equity, because they favour the two main political parties.

On November 25 1997, a designated third-party candidate petitioned the Superior Court in order that certain sections of the *Election Act* be declared inoperative. These sections refer to the reimbursement of election expenses based on the results obtained at the last election, to the advance on this reimbursement, to the remuneration of representatives at the polling station by the Government, as well as to the possibility for a third-party candidate to recommend a deputy returning officer of a poll clerk of his choice.

The petitioner alleged that the provisions of the *Election Act* render the electoral process inequitable because they confer upon certain candidates advantages that they deny to others on the basis of their political affiliation. The candidates from the two main parties, as it were, would have a clear advantage over third-party candidates. In addition, the petitioner alleged that the provisions in question, by conferring an arbitrary financial advantage, undermine his right to qualify and, more generally, debase the voting right of the Quebec citizenry.

Just after the November 30, 1998 general election, namely on December 11, the Superior Court of Quebec invalidated certain provisions of the *Elections Act*. In-

deed, the Court considered that the provisions that granted remuneration to the representatives of the parties having ranked first and second at the previous election constituted an unjustified restriction on the freedom of expression and the freedom of association protected under the Charter and gave rise to an unacceptable inequality among the candidates.

Similarly, the *Election Act* provided for the reimbursement of a portion of the election expenses incurred by the candidates of parties having ranked first and second at the previous election, regardless of their performance during the current election. Prior to the calling of the election, these candidates even received an advance on the reimbursement that they were sure to obtain for their election expenses. These provisions were also invalidated by the Court, which considered that they unduly restricted the freedom of expression and created an inequality among the candidates. The Attorney General of Quebec decided not to appeal this judgment.

Moreover, on October 9, 1997, the Supreme Court of Canada handed down an important ruling in the "Libman Case". Indeed, the Court invalidated the provision of the *Referendum Act* and the *Special Version of the Election Act* for the holding of a referendum, the effect of which was to prohibit third-party advertising, deeming that these provisions unduly restricted freedom of expression.

After having held public consultations during a parliamentary commission in the spring of 1998, the government tabled in May 1998 Bill 450. This Bill was sanctioned on October 21, 1998, just prior to the calling of the November 30, 1998 election.

New provisions were incorporated in the *Election Act*, the *Referendum Act* and the *Act respecting elections and referendums in municipalities to allow and provide a framework for certain third-party advertising initiatives*.

During an election, be it provincial or municipal, an elector or a group composed in the majority of electors can henceforth incur publicity expenses to express its view on a matter of public interest or to obtain support for such a view or to advocate abstention or the spoiling of ballots, without however directly supporting or opposing a candidate or a party.

This elector or group of electors, designated in the Act under the expression "private intervenor" must however obtain prior authorization from the returning officers. The publicity expenses must not exceed a total amount of \$300 and a private intervenor is prohibited from pooling such expenses with another person or group. Finally, an expense return, accompanied with vouchers, must be filed in the 30 days following the election.

Moreover, the bill introduced a new exception regarding the notion of election expenses by allowing any person to incur expenses of not more than \$200 to hold meetings provided that these meetings are not organized directly or indirectly on behalf of a candidate or a party.

The same rules concerning prior authorization, identification of publicity, the prohibition of the pooling of funds and the obligation to file an expense return apply to private intervenors during a referendum.

Conclusion

In Quebec, for the most part, the regulations which apply to political party financing have become commonplace and are now an integral part of the political culture. Despite the minor criticism mentioned earlier, the Quebec system for financing political parties is in place.

When this system was first established in 1977, many feared that it would not work. But Quebec's experience has proven that it is possible to set up an efficient and equitable system based on financing by the people.

In conclusion it is possible to devise a system for financing political parties that is equitable. Certain prerequisites are however necessary. A social consensus must

exist as regards a minimal set of regulations that are to be adopted for the financing of political parties. Furthermore, the Assembly must establish efficient methods of control in order that the Act be fully implemented. The institution charged with applying the regulations must be above all suspicion as to its impartiality. Finally, the effective application of these regulations depends for the most part on the vigilance of the participants.

Despite the limitations inherent in any model, it is essential to strive for more equity in matters of political financing in order to not only promote true pluralism which reflects the range of opinions, but to ensure the highest level of implication possible on the part of electors in the political debate and, ultimately, to maintain the confidence of electors in their electoral system.

Notes

1. Louis Massicotte, "Le financement des partis au Québec. Analyse des rapports financiers de 1977 à 1989" in Leslie F. Sisdle, *Le financement des partis et des élections de niveau provincial au Canada*. Vol. 3 de la collection d'études de la Commission royale sur la réforme électorale et le financement des partis (Lortie Commission). Dundurn Press and Wilson Lafleur. Toronto and Montreal, 1991: 3-47.