

The struggle for Democratic Reform: THE FIGUEROA CASE



CPC Leader, Miguel Figueroa speaks to the media about the ground-breaking court decision

1 *What was the basis of the Communist Party's challenge?*

We considered that various changes to the elections act in 1993 unfairly discriminated against small parties and were therefore unconstitutional.

What were the problems with the elections act?

- deposits were increased \$50 000,
- this was combined with a 50 candidate rule
- if you failed, all your assets were sized

The Communist Party brought together all the small Parties, including the Greens. First it went to the lower courts, and \$50,000 deposits were struck down. The 50 candidate rule went eventually to the Supreme court in a legal battle that took several years.

2 *What did the Supreme court decide?*

The 50 rule is an unfair obstacle:

- It is natural that small parties would want to build their base and work in key ridings
- This rule would force smaller parties to spread resources, making it all that harder.

- (Court didn't go into media coverage, etc., but these are also important!)

There is no objective rationale for the 50 candidate threshold:

- For example, it prevents 'regional' parties
- We can have a Parti Québécois (75 seats in Quebec); but we couldn't have a Eastern Party (30 seats) or a Saskatchewan Party, etc.

Therefore, as long as parties meet regulations (ie. audited statements) they should be parties

3 *What about the argument that it screens out 'the fringe'?*

Supremes ruled this was a bogus because:

- Doesn't actually screen out small parties
- Some small parties like the Rhinos and Natural Law had run candidates in almost every riding

What about the argument that if you are not elected you're not a real party?

Government claimed – no:

- The point of elections is to combine public opinion into sufficiently small and powerful expressions represented by political parties
- The goal is to form a government and an opposition.
- if you don't elect people you are inconsequential

Supremes ruled – yes:

- Supremes said small parties have a role in the political life of the country
- Supremes said that, in the history of the country, small parties had an important impact on policy -- they may have been the first to raise issue, etc.
- For example, the Green Party first raised the issue of the environment

- There are many cases like this for the history of the Communist Party – ie. Medicare – but the Supremes did not go into this.

To say that only elected parties are political parties is far to narrow a measurement of the role of political parties in society.

4 *What was the Governments real concern?*

Tax receipts

- The government claimed it would deplete the treasury
- A flood-gate of cheaters will be opened of people claiming to get party status and obtain tax receipts
- "We have limited resources" there is only so much money, so this is necessitated by the not withstanding clause

Supremes ruled – this doesn't hold:

- Small parties still have to have audited statements
- attorney general then said 'audits, oh anyone can fix audits' !!
- that, however, is a question of policing (and when large parties cheat... they cheat in the millions! not like the small parties can ever do)

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5 *What did the government do?*

- it reduced the threshold to one candidate
- you have to have an independent auditor, etc.
- but the official threshold is one candidate for a general election
- It educated civil servants and all candidates in the next general election on this case

Fair elections and accountable politicians

(From the Communist Party's 2006 Federal Election Platform)

Democratize the electoral system to reflect voter wishes, combining the election of individual MPs with proportional representation, and the right to recall MPs. Guarantee equal treatment for all political parties: scrap the "2%" rule which gives taxpayer funding only to "major" parties; give equal access to media coverage under the Broadcast Act, so that voters can make informed choices. Conduct comprehensive voter enumeration before every election. Remove restrictions on the right of unions to donate to political parties; keep the ban on corporate donations. Members of Parliament to receive the average workers' wages and benefits.