

# Communist Party of Canada vindicated

## Justice's ruling declares Canada Elections Act unconstitutional

By KRISHNA LALBIHARIE

Subsequent to a constitutional challenge issued by the Communist Party of Canada (CPC), Ontario Court Justice Anne Molloy rendered Wednesday March 11, that various sections of the Canada Elections Act are unlawful, restrict political representation and encumber freedom of expression.

"We're certainly not under any illusions that this action indicates a phenomenal blooming of democracy in this country, but it's truly a step forward," says CPC leader Miguel Figueroa of Molloy's decision.

Since forcibly losing official party status in 1993 on account of amendments to the Canada Elections Act as introduced by the former Mulroney government, the CPC, says Figueroa, "has had no choice but to engage in this struggle and challenge the constitutionality of the many anti-democratic sections within the Act," and asks that the "Federal government uphold and respect [Molloy's] decision and the views of thousands of Canadians who remain in opposition to draconian legislation."

Madame Justice Molloy's rulings indicate that current provisions within the Act requiring political parties to nominate a minimum of 50 candidates to remain registered as an official party is unconstitutional, suggesting instead that the nomination of two candidates is sufficient.

"The only advantage I see [with] the fifty candidate threshold is the competitive advantage obtained by larger parties by virtue of the reduced fund raising capacity of their electoral opponents," stated Justice Molloy on

March 11.

"This is not an advantage consistent with fairness and democratic rights."

Molloy additionally argued that the preclusion of party affiliation on ballots for parties who fail to field 50 candidates, as is presently legislated, is "illegitimate", adding that "voters are in a better position to make determination[s] if more, rather than less, information on party affiliation is provided."

Molloy further stated that current stipulations allowing for the liquidation of a party's assets for failure to nominate a minimum of 50 candidates, and the acquisition of 15 percent of total votes for the partial refunding of nomination deposits, is also unconstitutional.

"Stripping a political party of its assets in the absence of any act of wrongdoing by that party can only be seen as an oppressive act which has the effect of stifling political discourse. The deposit provision is also based on irrational premises as well as stereotypical notions that individuals [or parties] able to pay the \$500 deposit are likely to be serious and supported by the public, whereas those for whom paying a deposit would be an obstacle are not," she said.

Minister of State and Leader of the Government in the House of Commons, Don Boudria disagrees and is presently considering appeal of Molloy's ruling believing that the Act's current structure is adequate and serves to protect the public interest.

"The issue of seizure of assets is appropriate because taxpayers partly subsidize these assets," says Boudria who adds that the established

minimum of 50 nominations for party registration, asset liquidation and identification on ballots is both "reasonable" and "justifiable" given the size and number of Members of Parliament within the House of Commons.

"We think the government's original position is correct and are studying whether we will appeal all, most or some of the aspects of Justice Molloy's ruling. We have about 2 to 3 weeks to decide," he said.

Figueroa, however, maintains that appeal of Molloy's recommendations, in part or in whole, is injudicious and notes that arguments forwarded by Boudria regarding the liquidation of a party's assets for failure to nominate 50 candidates in protection of public interest is "irrational."

"The vast majority of small parties, including the CPC, do not receive funding from the public purse. The only direct funding that could be attributed from the public is through the issuing of tax receipts," Figueroa says, adding that all political parties are required to file adjusted statements and must therefore justify how revenues are used to finance all political and electoral activities.

"If anything, it's the larger political parties that receive millions of dollars in funds directly in terms of expense remuneration for election campaigns," he said.

Altogether, Figueroa perceives Molloy's ruling as reflective of the Canadian electorate's desire for a greater, more inclusive political process -- one which is considerate of all parties and beliefs. "Canada, after all, is not an exclusive country club where its members can de-

side to maintain an exclusive membership. That may be one thing for a country club,

but not for a democratic political process."

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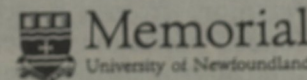
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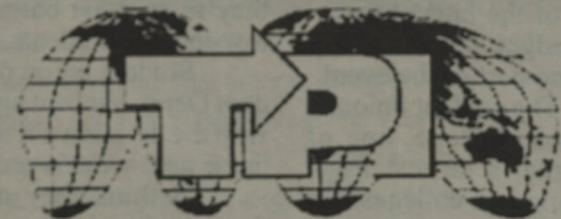
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