

*Points of Order*

that party status itself is distinct from the financial provisions of the act.

• (1510)

There being no clear and precise legal definition of party status, we may ask how the financial provisions of the Parliament of Canada Act came to be confused with the acceptance of party status in the House.

Shortly after the passage of the 12-member threshold amendments in 1963, the Ralliement Cr ditiste divided themselves from the Social Credit Party which was left with only 11 members. In the ensuing debates about the new seating arrangements, the new 12-member threshold was loosely applied to questions of parliamentary practice as the House sought to deal with the fact that two parties had been created out of one, a situation quite unlike the one in which the NDP now finds itself.

Indeed, in the last Parliament the 12-member threshold was also used to deal with the formation of the Bloc out of defectors from the Liberal and Conservative parties, another situation totally different from that of the NDP in this Parliament.

John C. Courtney, a political scientist who published a paper on party recognition in March 1978 in a volume of the *Canadian Journal of Political Science*, explained the development of the misreading of the 12-member threshold very effectively:

Technically the 12-member threshold in the 1963 act and parliamentary procedure had nothing to do with one another, yet the timing of the events was virtually certain to produce a combination that would lead to the injection of the phrase "recognized membership of 12 or more persons in the House of Commons" into future debates over regulations and statutes dealing with political parties. The term, indeed more specifically the number, would gradually assume an authenticity of its own.

The view that the 12-member threshold constitutes a hard and fast rule in law about party status in this House is in fact an illusion. However, in an illustration of the old maximum that hard cases make bad law, misapplications designed to deal with divided and/or new parties are now side swiping the NDP in the absence of an appropriate will to discern the difference between some previous situations and the situation we find ourselves in at the moment.

A more reliable legislative authority for determining party status can be found in the Canada Elections Act. In sections 24 through 42 of that act, it is clear that parties lose party status not when they fall below the 12-member threshold but only when they fail to file certain documents or when they fail to officially nominate candidates in at least 50 constituencies 30 days before polling day.

Even though there is no question that the New Democratic Party is now a registered party under that act, in the House we are treated as if we were independents, no differently than some

other members who do not belong to a party registered under the Canada Elections Act.

To this point, informal arguments against the way we are being treated are often met with the argument that real independents could make a similar claim, that it is a primarily a question of degree and that a line has to be drawn somewhere. If the Canada Elections Act were taken into account this argument would hold even less water than it does now if that were possible.

There is therefore no legal authority, either in the Parliament of Canada Act—

**The Speaker:** I have given the hon. member a great deal of latitude in putting forth his point of order and, if I might comment, it is very well researched. I was wondering perhaps if the hon. member could now move to summarize on this particular point of order.

**Mr. Blaikie** Mr. Speaker, I would hope you and the House would realize that this argument takes some time to make. I will move as quickly as I can to the conclusion of my argument. However it is not something that we do every day here and I would like my argument to be heard, if that is possible. I will try to move as quickly as I can.

There is no legal authority, either in the Parliament of Canada Act or in the Canada Elections Act, for withholding recognition from us.

Past Speakers have not, moreover, applied the 12-member threshold to questions of party recognition. I would now like to direct your attention, Mr. Speaker, to a number of the relevant precedents which is perfectly in order with what a good point of order should be like, arguing from precedent.

The first and most relevant precedent is the party status accorded to the CCF after the 1958 election. Electing eight members to the House the CCF was then in a very similar position to that of the NDP in this Parliament.

• (1515)

In 1958 the CCF continued to enjoy its full rights as an opposition party. CCF members were seated as a party in the House and were treated as a party in debate and during Question Period. The party leader was treated as a party leader in debate on the speech from the throne, being recognized immediately after Mr. Pearson and Mr. Diefenbaker. CCF members also sat as full members on committees.

After the 1963 introduction of the 12-member threshold, Speakers regularly interpreted the act as one that granted certain financial benefits to parties with more than 12 members. However that did not take away any other rights of parties that had fewer than 12 members.