

Samuel Michael Frank v BC Attorney General
in BC Supreme Court

BC Attorney General: Application to strike

I served my case on the Attorney General in September. On October 9, I received notice from the Attorney General's lawyer that he is making an application to the court to have my case struck out (dismissed), and that the hearing of this application would be the morning of October 17.

Here are the sections of the *Canadian Charter of Rights and Freedoms* that are relevant to this case, with specifically relevant portions underlined:

1. The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

2. Everyone has the following fundamental freedoms:

(a) freedom of conscience and religion;

(b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;

(c) freedom of peaceful assembly; and

(d) freedom of association.

3. Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.

4. (1) No House of Commons and no legislative assembly shall continue for longer than five years from the date fixed for the return of the writs at a general election of its members.

24. (1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.

Now here is the order I am asking the court to make in my petition:

Before any individual, officer, or agent in British Columbia may have, or attempt to have, any laws imposed upon the petitioner that are created by a legislative assembly that denies the right to vote in an election of its members for any period of time, one of three conditions must be met:

1. the individual, officer, or agent must demonstrate to this honourable court why it is justifiable in a free and democratic society to consider it a reasonable limit to deny the right to vote in an election of members of a legislative assembly for any period of time,

2. the individual, officer, or agent must demonstrate to this honourable court that the petitioner has had membership in the Interactive Sovereign Society terminated, either for failure to adhere to its laws or by resignation, or

3. the individual, officer, or agent must demonstrate to this honourable court that the petitioner has displayed a lack of good faith in his allegiance to Her Majesty Elizabeth II, Queen of Canada

The lawyer gave three reasons for asking my case to be struck out. Here are the three reasons as well as the answers I have now filed with the court and served on the lawyer. The petitioner is Me and the petition respondent is the lawyer.

1. The Attorney General's lawyer claims that I am a member of an organization that promotes an alternative form of voting system, and the belief that "sovereign" individuals may opt out of legislation. He cites a case from the Alberta Court of Queen's Bench, *Meads v Meads*, in which such People were deemed to be "vexatious litigants" and their pleadings being unworthy of court attention.

I answered this in two paragraphs:

The petition respondent claims that the petitioner, as a member of the Interactive Sovereign Society (ISS), has a belief that sovereign individuals may opt out of legislation.

No claim has been made in the petition as put to this honourable court that a sovereign individual may opt out of legislation. This petition has relied solely on denials and infringements of rights and freedoms guaranteed in the *Canadian Charter of Rights and Freedoms*. Therefore, reference to *Meads v. Meads*, 2012 ABQB 571, or any further orders citing "Organized Pseudolegal Commercial Argument" ("OPCA") litigants, are irrelevant to this petition.

2. The Attorney General claims that the Canadian Constitution would not have stipulated a maximum period of time between elections (section 4(1) states a five year maximum) if any shorter time period *prima facie* infringed a person's right to vote or freedom of conscience, association, or expression.

I took a few more paragraphs to answer this claim:

Periodic elections provide the means to exercise the section 3 *Charter* right to vote on one isolated occasion and then provide no means to exercise this right for a period of time. An interactive electoral system never denies this right. The petition respondent has not cited any instance in which an interactive electoral system has been used prior to its usage in the Interactive Sovereign Society.

Based on the lack of any usage of the interactive electoral system at any time in history to the apparent knowledge of the petition respondent, the assumption appears to have been made that it is impossible to provide the right to vote in an election of members of a legislative assembly at all without it being denied for periods of time. The petition respondent appears to believe that this therefore serves as justification for the denial of this right through those periods.

Given the assumption that it is impossible to provide the right to vote at all without it being denied for periods of time, it is quite reasonable that a maximum time period be set, as in section 4(1) of the *Charter*, for a legislative assembly to continue prior to a new election being required. Since that assumption has now been challenged through the demonstration of an interactive electoral system, it is possible that freedom and democracy would be better served by providing voters the means to exercise their section 3 Charter rights at times of their own individual choosing, instead of at times prescribed by the government seeking election at those times. This would render the requirement for a maximum time period as specified in section 4(1) obsolete.

Section 4(1) of the *Charter* does not state that it is allowable to deny section 3 rights for periods of time. Section 4(1) states a maximum time limit for a legislative assembly to continue based on prior assumptions of the necessity for such a maximum as depicted above. To interpret section 4(1) as implying that it is demonstrably justifiable to deny section 3 rights for periods of time after a demonstration being made that it is possible for this right never to be denied would be a prescription of law that may be neither reasonable nor demonstrably justifiable for the purposes of freedom and democracy.

Section 4(1) of the *Charter* states that no legislative assembly may continue for longer than five years from the date fixed for the return of the writs at a general election of its members, but does not state that it be required that the writs be returned. For an interactive electoral system, once the writs are issued, there is generally no date fixed for the return of the writs. Upon the date of the writs being issued, section 3 *Charter* rights become available without interruption to be exercised by voters.

The Constitution of the Interactive Sovereign Society, as submitted in the first affidavit of Richard David John Durie to this petition, serves as the writ requiring a general election of the members of the society's legislative assembly. Since the society was founded in December 2010, that date serves as the date upon which the writ was issued. That writ has since then not been returned. The section 3 rights of the members of the society have since then not been denied except when laws created by legislative assemblies which do deny these rights for periods of time have been imposed upon those members.

3. Finally, the Attorney General's lawyer claimed that I did not file the correct form of proceedings and here's my answer to that:

The petition respondent claims that the correct manner of proceedings on a constitutional challenge would be a notice of civil claim.

Rule 2-1(1)(a) of the *Supreme Court Civil Rules* states that a person must file a petition when there is no person against whom relief is sought.

The petitioner seeks no relief against any person. This petition asks a declaratory order of the rights and freedoms of the petitioner as guaranteed in the *Canadian Charter of Rights and Freedoms*. Therefore, the petition respondent's claim that a petition is not the correct manner to file these proceedings is not in accordance with the *Supreme Court Civil Rules*.