



August 15, 2012

Delivered by hand

British Columbia Court of Appeal
400 - 800 Smithe Street
Vancouver, BC V6Z 2C5

Attention: Maria Littlejohn, Deputy Registrar of the Court of Appeal

Dear Ms. Littlejohn:

**Re : IN THE MATTER OF: *The Constitutional Question Act*, RSBC 1996, c. 68
AND IN THE MATTER OF: *The Canadian Charter of Rights and Freedoms*
AND IN THE MATTER OF: A Reference by the Lieutenant Governor in Council
set out in Order in Council No. 296/12 dated May 16, 2012 concerning the
constitutionality of amendments to provisions in the *Election Act*, RSBC 1996, c. 106
regarding election advertising by third parties
Court of Appeal File No. CA39942**

Mr. Garry Nixon was granted status as an intervenor in the above referenced matter. In accordance with the scheduled approved by Chief Justice Finch, intervenors are required to file their factum by today.

Mr. Nixon provided our office with a copy of the enclosed correspondence. Mr. Nixon advises that this is the extent of the written material he intends to file for the appeal. We would be grateful if you could ensure that Mr. Nixon's correspondence is included with the material provided to the panel hearing the appeal.

Yours truly,

Karen Horsman
Barrister and Solicitor

Enclosure

cc. Garry Nixon (In Person Representative)
Mark Underhill (Amicus counsel)

Ministry of
Justice

Legal Services Branch
Vancouver Office

Location:
1301 - 865 Hornby Street
Vancouver BC V6Z 2G3

Telephone: 604 660-3093
Facsimile: 604 660-6797

Peter Gall, Q.C. (Counsel for Gloria Lawrence and Wendy Weis)
Robert D. Holmes, Q.C. (Counsel for B.C. Civil Liberties Assn.)
Dermond Travis (Representative of IntegrityBC)
Sean Hearn (Counsel for Freedom of Information and Privacy Assn)
Antony Hodgson (Representative of Fair Voting BC)

Lewis, Heather JAG:EX

Subject: Letter to the Court of Appeals

From: Kathryn [<mailto:kathryn.gbn@telus.net>]

Sent: Wednesday, August 8, 2012 11:52 AM

To: Wolfe, Karrie JAG:EX

Subject: Letter to the Court of Appeals

Dear Ms. Wolfe,

Please find enclosed my submission to the BC Court of Appeal as promised when I appeared before Chief Justice Finch last month.

To the Court of Appeals:

An election campaign is a special moment in a democracy. It is a moment when voters are most concerned about issues, and politicians are most concerned about votes, seats, and pensions. This confluence of interests, however brief, returns power back to its source -- the electorate. At this special time the people must be free to debate the issues as vigorously as they think necessary.

Yet in this very province the government of Mr. Clark enacted legislation to curtail this freedom by putting a \$5,000 limit on political advertising during election campaigns. I felt this law was fundamentally unconstitutional, and resolved to test it by spending more than that limit, filing appropriately, then refusing to pay any penalty.

I was summoned to court, where Mr. Justice Bremmer ultimately declared the law to be unconstitutional. The Attorney General of the day chose not to appeal that decision.

However, the subsequent government of Mr. Campbell, which had inveighed against the legislation while in opposition, curtailed our rights yet further by reducing the allowed maximum to \$3,000 per constituency. What's more, they retained a previous prohibition against any attempt by individuals to pool their allowances for greater effect. Should they act together, their limit would remain \$3,000 in total.

Again I felt this law was unconstitutional. Again I resolved to flout it. On this occasion, however, the opportunity to challenge it in court was denied me. Suddenly the government decided that I had not committed a crime after all, despite my best efforts and a pocketful of receipts proving I had. There would be no penalty, despite a clear mathematical formula for assessing one. Although I had spent a lot of time and an adequate amount of money to defy the legislation, the right to argue its constitutionality was taken away. The law was somehow not a law for me. The right of any honest lawbreaker to go to court was somehow not a right for me. The words did not mean what the words said, the legislation did not mean what the legislation meant, and even the pristine mathematical neatness of the penalty formula did not add up to a penalty. All this to avoid meeting me in court.

In George Orwell's "1984", words meant whatever would be convenient for the Masters. Orwell meant the book to be an urgent warning for western liberal democracies. The governments of this province seem to have taken it for a how-to-do-it guide.

Justices, an election campaign is when legislators are reminded that they are not our Masters; they are our representatives. Their administrators are not their willing co-conspirators; they are our servants. Our right to speak freely is of the very essence here. It must not be limited by any government. Right here, and right now, this Court can make that point by striking down this evil legislation.

I ask you to do exactly that.

Sincerely,

Garry Nixon