

## Prentice should honour fixed election law

Can the government break its own law when it feels like it?

Edmonton lawyer Tom Engel raises this important question about the rule of law in a court action commenced last week and not yet fully concluded.

Engel is asking the court to order the Jim Prentice-led government to abide by Section 38.1 of Alberta's Election Act, which states plainly that the next election must be held in 2016 (not 2015), between March 1 and May 30.

In 2012, the legislature passed fixed times for elections, once every four years. Promoting this measure, then Attorney-General Verlyn Olson argued that our political process requires integrity, transparency, predictability and fairness. Requiring elections to be held every four years would allow the government and civil service to work within clearly established timelines, leading to improved governance. PC and opposition MLAs agreed that, aside from the \$25 million cost of holding an election, manipulating the political process created a very unfair advantage for the governing party.

Engel's application provides the court with an opportunity to uphold the rule of law, which is a constitutional principle enshrined in both the charter as well as Canada's pre-charter constitutional framework. The rule of law is one of the pillars of western civilization, with roots dating back to pre-Christian times.

Plato argued that "if law is the master of the government and the government is its slave, then the situation is full of promise and men enjoy all the blessings that the gods shower on a state."

In similar fashion, Aristotle stated that it "is more proper that law should govern than any one of the citizens." The Roman statesman Cicero noted the connection between the rule of law and freedom: "We are all servants of the laws, in order that we may be free."

Closer to home and closer in time, the Magna Carta made it clear in 1215 that not even the king of England is above the law.

The rule of law is not always popular. In 1961, Alabama Gov. John Patterson refused to protect the peaceful but highly provocative Freedom Riders from violence at the hands of Ku Klux Klan mobs. The Freedom Riders travelled through southern states by bus to uphold federal law, by defying illegal racial segregation. Black Freedom Riders would seat themselves in "whites only" restaurants and waiting areas at bus stations; white Freedom Riders sat in "coloured" areas.

The Birmingham police stood by and watched while an angry mob beat up the unpopular activists, many of whom were hospitalized. Patterson accused these "rabble-rousers" of "asking for trouble," declaring "we can't act as nursemaids to agitators" who are "creating a riot." Patterson supported the police decision not to uphold the law, absolved the KKK mobs, and blamed the Freedom Riders. In the interest of "safety and security," the Freedom Riders were told to cease

their unpopular but perfectly legal activism.

Most Canadians take it for granted that the law applies to everyone, even when we disagree with a law. No doubt Prentice would have zero tolerance for Albertans choosing to disregard the newly increased traffic fines, personal income tax hikes, sin taxes and other tax increases. Stories about how these new taxes impose real hardship on average Alberta families, whether true or exaggerated, would be dismissed as irrelevant.

The law is the law, and everyone must obey it. Yet Prentice seems bent on ignoring the rule of law, by disobeying the Election Act. As Jesse Kline explained in the National Post: "It seems that there are two sets of laws in the country: one for the governing elite and another for the rest of us."

The Alberta government has argued that the Lieutenant-Governor has sole authority and discretion to dissolve the legislature. True, but that fails to explain why the premier and cabinet should not have to comply with the Election Act.

If the Election Act is blatantly and deliberately violated, it makes a mockery of legislation as well as the rule of law. There is more at stake here than the premature spending of \$25 million.

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