Federal Court  Cour fédérale

Date: 20130226

Docket: T-1068-12

Citation: 2013 FC 196

Ottawa, Ontario, February 26, 2013

PRESENT: The Honourable Mr. Justice Russell

BETWEEN:

DENNIS MEECHES

Applicant

and

DAVID MEECHES, GEORGE ASSINIBOINE, MARVIN DANIELS, RUTH ROULETTE, and BARB ESAU

Respondents

REASONS FOR JUDGMENT AND JUDGMENT

INTRODUCTION

[1] This is an application under subsection 18.1 of the *Federal Courts Act* RSC 1985 c F-7 for judicial review. The Applicant seeks:

1. An order declaring that the Election Appeal Committee made a final and binding decision which requires new elections for the office of Chief and Council of the Long Plain First Nation to take place;

2. An order declaring that all parties must comply with the decision to hold new elections, and take steps to forthwith call the new election;

3. In the alternative to 1 and 2, an order remitting the matter back to the Election Appeal Committee with directions that the office of Chief has become vacated as a result of breaches of section 5.4 of the Act, and requiring a by-election for the position of Chief to be called;

4. In the alternative to 3, an order of *mandamus*, remitting the matter back to the Election Appeal Committee, and requiring them to make a decision on Dennis Meeches' election appeal which was filed with them but on the basis that the Election Appeal Committee is to receive and consider additional evidence that was not before them when they issued their initial reasons, so that all sides have an opportunity to:

   a. put forward their own evidence and argument; and

   b. respond to the evidence and arguments of those opposite in interest to them,

   all with a view to ensuring that a final disposition on the merits can be made after all relevant evidence is considered;

5. An order quashing any decision of the Election Appeal Committee that rejected the election appeal of the Applicant, and remitting the matter back to them for reconsideration;

6. Costs on a solicitor and his own client basis in favour of the Applicant.

BACKGROUND

[2] The Long Plain First Nation is a band within the meaning of the *Indian Act* RSC 1985 c I-5. It conducts its Chief and Council elections in accordance with Band Custom as set out in the Election Act. Following the most recent elections held on 12 April 2012, the Applicant filed an appeal in accordance with his right to do so under the Election Act.

[3] The Applicant was the runner up in the election for Band Chief. The margin between him and David Meeches was 32 votes. Following the election, the Applicant filed an appeal on the basis that there were election irregularities, including that David Meeches had acted in a manner that was inconsistent with the Election Act. Specifically, the Applicant alleged that David Meeches engaged in "vote buying," contrary to the Election Act.

[4] David Meeches denies the allegations of vote buying. Both the Applicant and the Respondents, in their respective Application Records, have adduced affidavit evidence on this issue. The Applicant's appeal also contained allegations involving the Respondents Marvin Daniels, Ruth Roulette and George Assiniboine, in relation to which they have provided affidavit evidence denying any involvement.

[5] In the Applicant's appeal, he asked the Election Appeal Committee to rule on whether there ought to be new elections, and also whether David Meeches had been involved in conduct that would disqualify him from holding office. He based his complaint on paragraph 5.4 of the Election Act. In response, an oral hearing was held on 27 April 2012.

[6] The Applicant attended at the hearing and presented his arguments and evidence. David Meeches was also there, but not present at the same time as the Applicant. On 4 May 2012, the Applicant received a copy of a document from the Election Appeal Committee which he construed to be a decision on the matter. In the reasons, the Election Appeal Committee concluded that "we recommend that the election be set aside." The Election Appeal Committee did not make a clear finding about the vote buying allegations against David Meeches, but the Applicant considered his appeal a success and expected new elections to be held soon.

[7] Following this, David Meeches and others commenced a judicial review application in Federal Court (citation 2012 FC 570, file number T-909-12) seeking to quash the Election Appeal Committee decision, as well as an emergency interlocutory injunction preventing anyone from taking steps towards a new election process. The Applicant was served with the documents relating to this application on 9 May 2012 and the matter was heard on 11 May 2012. He states that he did not have a reasonable opportunity to seek legal advice and present arguments for this motion.

[8] Justice Sean Harrington dismissed the request for an injunction, finding that the reasons of the Election Appeal Committee constituted a "recommendation" that may or may not be acted upon. He found at paragraphs 5-8 of his decision as follows:

> The key paragraph of the report of Election Appeal Committee is as follows:
>
> > While there were some deviations from the Long Plain Election Act as discussed above, the election process overall appears to have been fairly conducted. However, since the Election Act is a key part of the governance of the First Nation and since it was enacted to govern elections, we recommend

> > that the election be set aside and an election process be undertaken following the Act as it is written.
>
> I immediately seized on the word "recommend". Section 18.1(2) of the Federal Courts Act deals with applications for judicial review "in respect of a decision or an order of a federal board, commission or other tribunal…" I raised the point that a "recommendation" is directed to somebody else, in this case, perhaps, the Tribal Government. It is not a "decision" or an "order" as such. It may or may not be accepted and acted upon.
>
> This Band's elections are governed by custom, reduced to writing, in the form of the *Long Plain First Nation Election Act*, rather than the election provisions under the *Indian Act*. My attention was brought to article 8.8 of the *Election Act* which reads:
>
> > In the event the Election Appeal Committee recommends that the elected official has vacated his or her office pursuant to a breach, the Tribunal Government shall declare the office vacant and forthwith call a By-election. The declaration shall be in the form of a Band Council Resolution passed at a duly convened meeting of the Tribal Government.
>
> The applicant is concerned that in context the Election Appeal Committee's "recommendation" was in fact a decision. However, the Election Appeal Committee did not recommend that any elected official has vacated office due to a breach, and therefore there is no requirement that the Tribunal Government declares an office vacant and calls a bi-election. Since article 8.8 does not apply, the word "recommend" must be given its ordinary meaning.

[9] The judicial review application was then discontinued by the applicants, who are the same individuals named as the Respondents in this application.

[10] Based on Justice Harrington's decision, the Applicant wrote to the Election Appeal Committee requesting that they make a decision. He has never received a response from them. The Applicant submits that the combined effect of the discontinuance of the original judicial

review application and the lack of response from the Election Appeals Committee is that he has never received a decision about his appeal and the allegations against David Meeches.

The Reasons of the Election Appeal Committee

[11] As regards the vote buying allegations, the Election Appeal Committee had the following to say:

> The allegations of vote buying present considerable challenges for the Election Appeal Committee. While the Election Act provides a broad mandate to investigate matters brought to it, the allegations of vote buying rely on statements made by individuals and interpretation of conversations overheard during the conduct of the vote and reported by the scrutineers for the individual who filed the appeal.

[12] The Election Appeal Committee also noted the problem of an important witness who wished to remain anonymous. It did not analyze or comment on the issue further.

[13] In its conclusion, the Election Appeal Committee said that though there were some deviations from the Election Act, the election process overall appears to have been fairly conducted. However, since the Election Act is a key part of the governance of the First Nation, it recommended that the election be set aside and an election process undertaken that follows that Election Act as it is written.

[14] The Election Appeal Committee also recommended amending certain sections of the Election Act in order to provide more clarity. It then provided some recommendations that it thought would provide guidance to the process.

ISSUES

[15] The Applicant raises the following issues:

1. Are the Reasons of the Election Appeal Committee a "matter" in respect of which relief by way of judicial review can be entertained under subsection 18.1 of the *Federal Courts Act*?
2. Did the Election Appeal Committee make a "decision or order" that a new election was to take place?
3. If the Election Appeal Committee did make a "decision or order" to hold a new election, and given the Respondents' discontinuance of the judicial review of that decision, are the Respondents now barred from seeking to quash or challenge that decision?
4. If this Court decides that the Election Appeal Committee made no "decision" (as Justice Harrington on an interim basis so ruled), then what remedy, if any, should the Court grant in these judicial review proceedings?

APPLICABLE STATUTORY PROVISIONS

[16] The following provisions of the Election Act are applicable to this proceeding:

> 5.4 No buying votes in any manner, i.e. giving money, buying alcohol, or anything given or exchanged of monetary value between Nomination Day and Election Day.
>
> […]
>
> 5.11 Failure to adhere to Sections 5.1 to 5.10 will lead to disqualification of the candidate.

[…]

6.1 A By-Election will be called, if one or more offices of the Tribal Government becomes vacant…

[…]

8.5 The Election Appeal Committee shall have the authority to investigate and determine whether an elected official has breached any of the provisions of the Long Plain First Nation Declaration of Office for Elected Officials, Schedule "E" hereof, and to investigate and determine whether any elected official has vacated his/her office as a result of the provisions of Article 18 herein.

[…]

8.8 In the event the Election Appeal Committee recommends that the elected official has vacated his or her office pursuant to a breach, the Tribunal Government shall declare the office vacant and forthwith call a By-election. The declaration shall be in the form of a Band Council Resolution passed at a duly convened meeting of the Tribal Government.

[…]

17.2 Grounds of an appeal are restricted to election practices that contravene this Election Act.

[…]

17.7 The decision of the Election Appeal Committee shall be irrevocable, binding, and final. The decision must be made public within (2) days of the appeal hearing with the decision being posted at the Tribunal Government office, Administration office, and Keeshkeemaqua Conference Centre.

[…]

18.1 Any office of the Tribal Government becomes vacant when the person who holds office:

[…]

d. Has been found guilty of corrupt practice in connection with the election pursuant to a decision of the Election Appeal Committee. A corrupt practice shall include, but not be limited to, tampering with the election

> process, bribery, or coercion related to the election, campaigning while the polls are open, and anything else the Election Appeal Committee deems to be a corrupt practice.

[…]

ARGUMENTS

The Applicant

Does the Federal Court have jurisdiction to hear this application?

[17] The Applicant submits that whether or not there is a "decision or order" under review, the Federal Court has jurisdiction to consider any matter in respect of which a remedy may be available under section 18 of the *Federal Courts Act* (*Krause v Canada*, [1999] 2 FC 476 at paragraph 24).

[18] The Applicant points out that one of the remedies available to the Court is an order of *mandamus*. Other remedies could be a directed verdict without requiring the tribunal to reconsider the matter, or the issuance of declarations. None of these remedies requires the existence of a "decision or order."

[19] Based on the above, the Applicant submits that the Court has jurisdiction to entertain these proceedings.

Did the Election Appeal Committee make a "decision or order"?

[20] In *Conacher v Canada (Prime Minister)*, 2009 FC 920 [*Conacher*], an argument was advanced that the Prime Minister did not make a "decision" to call a new election, but had only made a recommendation to the Governor General to call a new election. The argument followed

that since the "decision" to call the election rested with another (in that case the Governor General), there was no "decision" being made by the Prime Minister. The Court rejected this argument, and said at paragraphs 26-27:

> At first blush, it appears that the Prime Minister's decision to advise the Governor General is not reviewable because the power to dissolve Parliament is the Governor General's prerogative, not the Prime Minister's; however, the Prime Minister's power can be seen as a prerogative because, it is discretionary, it is not based on a statutory grant of power and has its roots in the historical power of the Monarch. Although actual discretion therein lies with the Governor General, the case of *Black v. Chrétien* held that the Prime Minister also has the capacity to exercise prerogative powers (*Black v. Chrétien* at para. 33).
>
> The appellant in *Black v. Chrétien* argued that the Prime Minister did not exercise Crown prerogative by advising the Queen not to bestow an honour on Black, because the final decision was the Queen's. The Court rejected this argument and held "whether one characterizes the Prime Minister's actions as communicating Canada's policy on honours to the Queen, giving her advice on Mr. Black's peerage, or opposing Mr. Black's appointment, he was exercising the prerogative power of the Crown relating to honours" (*Black v. Chrétien* at para. 35). This shows that even advisory decisions can be reviewed as exercises of prerogative.

[21] The Applicant submits that this rationale is applicable to the present case; the action of the Election Appeal Committee to recommend an election is no less a "decision" even if it is true that someone else other than the Election Appeal Committee must take steps to call that election.

[22] The Applicant submits that the phrase "decision or order" has no fixed or precise meaning, but rather depends on the statutory context in which the advisory decision is made, having regard to the effect which such a decision has on the rights and liberties of those seeking judicial review (*Moumdjian v Canada (Security Intelligence Review Committee)* (CA), [1999] 4 FC 624 (FCA) at paragraph 24 [*Moumdjian*]).

[23] The Applicant says that, in light of *Moumdjian*, the Election Appeal Committee's recommendation to call a new election must be taken as a final and binding decision. The Committee was politely ordering that a new election take place.

[24] The Supreme Court of Canada considered the use of the word "recommend" in *Thomson v Canada (Deputy Minister of Agriculture)*, [1992] 1 SCR 385 [*Thomson*]. Justice L'Heureux-Dubé's dissenting reasons provide a detailed analysis of the factors to be considered when determining the binding nature of the word "recommend" (see paragraph 36).

[25] The Applicant argues that Justice Cory's decision for the majority in *Thomson* also supports a finding that there was a binding decision in this case. Justice Cory identified the following considerations to be taken into account:

a) Is there anything in the section or the Act which indicates that the word is to carry with it anything other that its common and usual (non-binding) meaning?

b) Who is responsible for making the final decision on the subject matter?

c) Is the same wording used in other parts of the document?

[26] The Applicant says that the Election Appeal Committee is the final body of appeal in respect of elections. In *Thomson*, the recommendation was made by a body that had a true advisory role. In this case, the role of the Election Appeal Committee is not to provide recommendations, but to hear and determine election appeals.

[27] In the previous proceedings initiated by the Respondents, Justice Harrington confined his analysis to paragraphs 8.5, 8.8, and Article 18 of the Elections Act. These sections deal with wrongful conduct which causes an automatic vacancy in elected office. The Applicant submits

that Justice Harrington did not consider the full ambit of the Election Appeal Committee's authority before arriving at his conclusions.

[28] Under paragraph 8.6 of the Election Act, the Election Appeal Committee's authority goes beyond allegations of wrongful conduct and extends to investigating any substantial matter brought under Article 17, which deals specifically with election appeals. Where an investigation leads to a "determination" that there is sufficient evidence to warrant an appeal hearing, that appeal hearing must take place, and the result of that appeal hearing under paragraph 17.7 is a "decision." Paragraph 17.7 identifies the "decision" as being "irrevocable, binding, and final."

[29] The Applicant submits that if the Election Appeal Committee was fulfilling its mandate to render opinions that are "irrevocable, binding, and final," it would hardly be consistent for them to render a non-binding recommendation that the Chief and Council could simply ignore.

[30] Further, the Applicant states that it goes against common sense to give the newly elected Chief and Council, the group of individuals against whom a potential election appeal is launched, the power to decide whether or not to accept a "recommendation" to call a new election. Such a governance structure makes little sense, as the Chief and Council could simply ignore any "recommendations" that they did not like.

[31] The Applicant submits that the fact that the Election Appeal Committee was polite in its wording, and paraphrased their decision or order as a "recommendation," does not detract from the fact that, upon considering all matters, it was making a final and binding decision that requires a new election to take place.

[32] Further, paragraph 8.8 of the Elections Act says that a finding that an official has vacated his office is to be communicated by way of a "recommendation that the elected official has vacated his office." The Election Act then goes on to say how "recommendations" are to be treated – the Chief and Council must declare the office vacant; they have no discretion to ignore the "recommendation."

[33] The Applicant points out that the Judicial Committee of the Privy Council had a mandate to give "recommendations," yet there was no question that their decisions were final and binding. In *R. v British Coal Corp.*, [1935] 3 DLR 401, the Privy Council had the following to say on point at paragraphs 4-5:

> It will be convenient to summarize in the briefest terms the nature of the appeal from Dominion or Colonial Courts to His Majesty in Council. The position of this Board, the Judicial Committee of the Privy Council, in relation to such appeals may first be indicated. The Judicial Committee is a statutory body established in 1833 by an Act of 3 & 4 Will. 4, c. 41, entitled an Act for the better Administration of Justice in His Majesty's Privy Council. It contains (inter alia) the following recital: "And whereas, from the decisions of various courts of judicature in the East Indies, and in the plantations, and colonies and other dominions of His Majesty abroad, an appeal lies to His Majesty in Council." The Act then provides for the formation of a Committee of His Majesty's Privy Council, to be styled the Judicial Committee of the Privy Council, and enacts that "all appeals or complaints in the nature of appeals whatever, which either by virtue of this Act or of any law, statute or custom may be brought before His Majesty in Council" from the order of any Court or judge should thereafter be referred by His Majesty to, and heard by, the Judicial Committee, as established by the Act, who should make a report or recommendation to His Majesty in Council for his decision thereon, the nature of such report or recommendation being always stated in open Court. The Act contained a great number of provisions for the conduct of appeals. It is clear that the Committee is regarded in the Act as a judicial body or Court, though all it can do is to report or recommend to His Majesty in Council, by whom alone the Order in Council which is made to give effect to the report of the Committee is made.

> But according to constitutional convention it is unknown and unthinkable that His Majesty in Council should not give effect to the report of the Judicial Committee, who are thus in truth an appellate Court of law, to which by the statute of 1833 all appeals within their purview are referred.

[34] The Applicant submits that an analogy can be made between the Privy Council and the Election Appeal Committee. The Committee is designated by the Election Act as being the final arbiter of the election process. In like vein, it should be considered "unthinkable" that in the context of its role as final decision maker, its recommendation to hold a new election could be simply ignored by the very persons against whom the recommendation was made.

[35] The Applicant also suggests that the silence of the Election Appeal Committee following Justice Harrington's decision, including its refusal to reconvene to make a "decision," suggests that it believes it has already made a decision and considers itself to be *functus*.

If the Election Appeal Committee did make a decision, are the Respondents now barred from seeking to quash it?

[36] Paragraph 18.1(2) of the *Federal Courts Act* provides for a 30-day time limit within which to seek judicial review of a decision. The Applicant submits that, having abandoned the judicial review proceedings, the Respondents cannot now challenge the decision of the Election Appeal Committee to hold a new election.

[37] In any event, the Applicant submits that the decision was based on ample evidence, and was the most supportable on the merits. The Election Appeal Committee did find that overall the election process was conducted fairly, but found that the process did not follow the mandatory

election rules and that a new election was appropriate. They required that the new election process be "undertaken following the Act as it is written."

[38] If the Respondents have concerns about being able to give a full response to complaints against them or the election process, such arguments should have been advanced in the original judicial review proceedings that they initiated and then discontinued. The Applicant says that it is now too late to complain.

[39] The Applicant argues that it is likely that the Election Appeal Committee was aware of the harsh consequences of a finding that David Meeches had engaged in vote buying, and instead chose to exercise its plenary power by calling new elections. The Applicant submits that this decision should be respected and new elections ordered.

If the Court rules that no decision has been made, what remedy should be ordered?

[40] The Applicant submits that the Court should exercise its discretion to issue directions in the nature of a directed verdict to the effect that the office of the Chief be vacated, and new by-elections be held immediately for the position of Chief. Where remitting the matter back to the tribunal is a formality and no material facts are in dispute, the court can refer the matter back under subparagraph 18.1(3)(*b*) of the *Federal Courts Act* as what amounts to a "directed verdict" (see *Turanskaya v Canada (Minister of Citizenship and Immigration)*, [1997] FCJ No 254).

[41] The Applicant submits that the reason why a directed verdict is appropriate in this case is because of the admission made by David Meeches in his most recent affidavit that he gave money to people during the campaign as loans. This is an act that offends paragraph 5.4 of the

Election Act. Mr. Meeches has provided extensive explanations as to why he did this, but the point of the rule is that any giving of money or exchanging of things of monetary value is prohibited during an election campaign. There is good reason for this prohibition; if it were otherwise the effect of the clause could be easily avoided by claiming that one was merely lending money to people or reimbursing them for expenses. The Applicant submits that, regardless of Mr. Meeche's intent in giving the money, which is set out in his affidavit, the effect on the voting electorate would be the same.

[42] In other words, based on admitted facts, the only defensible decision that the Election Appeal Committee could render is that there has been a breach of paragraph 5.4 of the Election Act, and that under paragraph 8.8 the office of Chief is to be declared vacated and a by-election must be called.

[43] Alternatively, the Applicant requests the Court issue an order of *mandamus* requiring the Election Appeal Committee to make a decision on the Applicant's election appeal, including the requirement that both sides be able to put forward and respond to evidence and arguments. The Applicant submits that all the requirements for an order of *mandamus* are present in this case (*Apotex Inc v Canada (Attorney General)*, [1994] 1 FC 742 (CA) [*Apotex*]).

The Respondent David Meeches

Was there a decision?

[44] This Respondent states that the Applicant's arguments ignore the fact that the Election Appeal Committee did make a decision regarding the allegations before it, and that its recommendation that a new election be held was *obiter*.

[45] The Election Appeal Committee expressed concerns about the reliability of the evidence put forward by the Applicant in his appeal, and as a matter of procedural fairness prescribed little weight to the allegations. The deficiency of evidence was well recognized in the reasons. The main accuser wished to remain anonymous, and thus the Respondent would not be able to make full answer and defense. The evidence of this person has now been submitted as part of this application, but it is the evidence at the time of the decision that is relevant. The Respondent states that the Election Appeal Committee was left with an empty accusation, and it was rightly not put to him for a response.

[46] Paragraph 5.4 of the Election Act states that the mischief meant to be addressed is vote buying and not charity. As this Respondent sets out in his affidavit, he gave the money in question to a candidate in order to buy food for her child. This is not related to the purpose stated in paragraph 5.4 of the Election Act. The Election Appeal Committee considered a variety of other allegations, and ultimately concluded that while the Election Act was not followed to the letter it did not have a material impact on the election results.

[47] This Respondent submits that the Election Appeal Committee did make a decision, and that it was a reasonable one.

Does the Election Appeal Committee have jurisdiction to set aside an election under the Election Act?

[48] This Respondent submits that the Election Act does not confer specific authority on the Elections Appeal Committee to set aside an election *holus bolus*. The Applicant has taken specific paragraphs of the Act that, when read together, suggest the drafters of the Election Act intended a high level of authority to exist, even though this is not explicitly stated.

[49] The Applicant suggests that because the Election Appeal Committee is the final arbiter of election appeals, it must have the authority to set aside an election *holus bolus*. What is left unexplained by the Applicant is why an intention to grant this authority is necessarily implied beyond what is explicitly provided for under Articles 8 and 18 of the Elections Act.

[50] The Respondent submits that for the Court to accept the Applicant's argument, it must also accept the Applicant's speculation that, rather than exercise its explicit authority under paragraph 8.5 of the Elections Act, thereby granting the relief now sought by the Applicant, the Election Appeal Committee intended the true objective of its reasons to be inferred through nuanced statutory interpretation.

[51] Justice Harrington's finding that the Election Appeal Committee was giving the word "recommend" its ordinary meaning is the more logical conclusion. Had the Election Appeal Committee determined that a corrupt practice had taken place, it could have exercised its authority to vacate any particular office and call for a by-election. It chose not to do so, finding there was insufficient evidence to impugn the conduct of the Respondent.

[52] The Respondent submits that no compelling reason has been offered by the Applicant for interfering with the decision. The Election Appeal Committee considered the evidence before it and made a reasonable determination with respect to that evidence.

If the Court finds a decision was made, are the Respondents now barred from seeking to quash that decision?

[53] In light of Justice Harrington's judgment, this question is moot. It has been determined that the Election Appeal Committee did not make a decision or order that a new election be held.

[54] What the Election Appeal Committee did decide was that there was no merit to the Applicant's allegations of "vote buying" against the Respondent, and he has no intention of attempting to interfere with that decision.

If the Court finds there was no decision, what remedy should be granted?

[55] The Respondent submits that *Dunsmuir v New Brunswick*, 2008 SCC 9 has established that deference ought to be paid to a tribunal interpreting its own statute. The decision ought not to be interfered with, and no remedy should be granted.

[56] While certain recommendations were made beyond the Election Appeal Committee's primary function as an appellate tribunal, the Respondent submits that it exercised its authority appropriately as that authority was granted to it by the Election Act.

[57] The Applicant has not shown that judicial intervention is warranted, but if the Court does direct that the matter be remitted back to the Election Appeal Committee, the Respondent requests that the Court give clear direction that the Election Appeal Committee be limited on its review only to the allegations and materials that were before it at the time of the initial appeal by the Applicant.

The Respondents George Assiniboine, Marvin Daniels and Ruth Roulette

Was there a decision, and if so what was it?

[58] These Respondents submit that every question before an agency results in a decision, even if that decision is to do nothing (Macauley & Sprague, *Practice and Procedure Before Administrative Tribunals*, 2004 at page 22-1). In *Devinat v Canada (Immigration and Refugee Board)*, [2000] 2 FC 212 (CA), the Federal Court of Appeal found that the Immigration and Refugee Board had made a "decision" not to issue its decisions in both English and French when it failed to do so. Given the above, these Respondents submit that the real question is: what decision did the Election Appeal Committee make?

[59] The Election Appeal Committee did not make any findings of fact against the Respondents, and ultimately it did not find that any of the deviations from the Election Act significantly impacted the fairness of the election. The Respondents submit that had it been found that any of the Respondents had engaged in vote-buying, interfering with the election, or using funds belonging to the First Nation to help gain re-election, the Election Appeal Committee would not have concluded that the election was "fairly conducted."

[60] Despite the above findings, the reasons included a recommendation that the election be set aside, and this caused some confusion amongst the parties. The Respondents submit that this confusion was dealt with by Justice Harrington. He found that because the Election Appeal Committee did not find a breach, there was no positive obligation on anyone to vacate their office and declare a by-election. Since the Chief and Council were not required to hold by-

elections, Justice Harrington indicated that the term "recommend" must have been used by the Election Appeal Committee in its ordinary sense.

[61] Also touched on by Justice Harrington was the fact that paragraph 8.8 of the Election Act puts the responsibility to call a by-election on the Chief and Council, not the Election Appeal Committee. Paragraph 8.8 says:

> 8.8 In the event the Election Appeal Committee recommends that the elected official has vacated his or her office pursuant to a breach, the Tribunal Government shall declare the office vacant and forthwith call a By-election. The declaration shall be in the form of a Band Council Resolution passed at a duly convened meeting of the Tribal Government.

[62] Consideration must also be given to paragraph 18.1 of the Election Act, which lists the situations where an office of the Chief and Council will become vacant, such as if the person is found guilty of corrupt practice in connection with the election, conflict of interest or contravening the declaration of office.

[63] Justice Harrington concluded in his Order that a "recommendation" by the Election Appeal Committee that an elected official had vacated his or her office was the only recommendation that could have been made that would have imposed a legal obligation upon Chief and Council to hold by-elections.

[64] As stated by the Applicant, despite submitting a letter to the Election Appeal Committee requesting that they make a decision on the appeals, the Committee failed or refused to provide a response. The Respondents submit that the Election Appeal Committee decided not to recommend that any of the Respondents had vacated their offices pursuant to a breach of the Election Act, and ultimately decided to dismiss the appeal when it issued its reasons.

What was the effect of Justice Harrington's order?

[65] The Applicant takes the position that he did not have the opportunity to present his arguments before Justice Harrington. These Respondents submit that they had the absolute right to discontinue an application without leave or the consent of the other parties (*Chrétien v Canada (Attorney General)*, 2005 FC 925 at paragraph 35). The Applicant could have appealed the order of Justice Harrington to the Federal Court of Appeal by way of sections 2 and 27 of the *Federal Courts Act*, but such an appeal must be brought within 30 days of the pronouncement of the judgment to be appealed.

[66] As the order was never appealed, the Respondents submit that this Court is bound by it and that the Applicant is precluded from challenging it by operation of the doctrines of *issue estoppel* and *collateral attack*. These doctrines were developed to prevent the re-litigation of issues and are related to the concept of *res judicata*, a doctrine for which the present application meets all the requirements set out by the Supreme Court of Canada in *Toronto (City) v Canadian Union of Public Employees (C.U.P.E.), Local 79*, 2003 SCC 63 [*CUPE*]: the issue is the same, the order is final, and the parties are the same as in the previous proceeding.

[67] Justice Harrington's comments regarding the meaning of the term "recommendation" were not *obiter dicta* as defined by the Federal Court of Appeal in *Air Canada Pilots Assn. v Kelly*, 2012 FCA 209, but formed an integral part of the Order. The issue in Justice Harrington's order was whether or not the term "recommendation" was used to refer to a decision; challenging this finding would challenge the correctness of his entire order. As a result, the Respondents submit that Justice Harrington's order is binding.

[68] The Respondents argue that the Applicant is seeking to directly challenge the decision of Justice Harrington, and as the Supreme Court said in *CUPE,* the doctrine of *collateral attack* provides that an order of a Court is final and binding unless the Court lacked jurisdiction to make the order, or the order is set aside on appeal or otherwise legally quashed. Otherwise, an attack on an order is prohibited (*CUPE* at paragraphs 33-34). The Respondents submit that this means this application must fail.

Was the "recommendation" a decision?

[69] As highlighted by Justice Harrington in his order, the only binding "recommendation" the Election Appeal Committee could make was the there had been a breach of the Election Act. These Respondents submit that the Election Appeal Committee does not have the jurisdiction to set aside the entire election.

[70] In the same way that an interpretation of a statute that renders it *intra vires* must be preferred over one that renders it *ultra vires* (*R v Greenbaum*, [1993] 1 SCR 674), in interpreting an ambiguous decision the interpretation which would be *intra vires* the powers of a tribunal must be preferred over an interpretation that would be *ultra vires* those powers.

[71] The Respondents further submit that before the Election Appeal Committee can make a recommendation that a person vacate office and that a by-election be held, it must first make a finding of fact that the elected member breached a provision of the Election Act. As such findings of fact were clearly not made in this case, a consistent interpretation of the "recommendation" must be chosen over an interpretation which would require an inference that such a finding was made.

[72] The Respondents submit that the Election Appeal Committee used the term "recommend" because it understood that it had the power to do no more than issue a mere suggestion. It recommends that a new election be undertaken in accordance with the Election Act, but does not require it.

Is the Applicant entitled to an order of *mandamus*?

[73] The requirements for an order of *mandamus* were outlined in *Apotex*, above. They are not met in the present application. As previously discussed, a decision has already been made as to whether any of the elected members of Chief and Council had breached the Election Act. The Election Appeal Committee also does not have the jurisdiction to order that a new election be called, absent the requisite findings of fact. The effect of this is that an order of *mandamus* would have little practical value. Thus, the Respondents submit an order of *mandamus* is not available in this case.

Is the Applicant entitled to an order quashing the decision?

[74] These Respondents state that the Applicant has failed to provide a position in the event that this Court determines that the decision made was to dismiss the appeal and not make any recommendations respecting whether any of the elected members of Chief and Council had vacated their offices. As a result, the Respondents submit there are no grounds for this relief, and the Court should not quash the decision.

ANALYSIS

Does the Election Appeal Committee have the power to compel a new election?

[75] As the Election Act makes clear, the Election Appeal Committee has the power under Article 8 to investigate and determine "whether an elected official has vacated his/her office as a result of the provisions of Article 18 herein," (8.5) and under Article 17 to hear and determine election appeals.

[76] In the event that the Election Appeals Committee determines that a breach under Article 18 has occurred, then paragraph 8.8 stipulates what is to happen:

> 8.8 In the event the Election Appeal Committee recommends that the elected official has vacated his or her office pursuant to a breach, the Tribunal Government shall declare the office vacant and forthwith call a By-election. The declaration shall be in the form of a Band Council Resolution passed at a duly convened meeting of the Tribal Government.

[77] It is clear that the word "recommends" in this paragraph means something like "decides." If such a recommendation is made, then the Tribal Government (i.e. the body of Tribal Members elected and established in accordance with the Election Act and consisting of one (1) Ogema (Chief) and four (4) Oginjiganag (Councillors)) must declare the office vacant and immediately call a by-election.

[78] In the event that the election appeal committee decides to allow an appeal under Article 17, then the consequences are set out in paragraph 17.7:

> 17.7 The decision of the Election Appeal Committee shall be irrevocable, binding, and final. The decision must be made public within (2) days of the appeal hearing with the decision being posted at the Tribunal Government office, Administration office, and Keeshkeemaqua Conference Centre.

[79] It is noteworthy that paragraph 17.7 is worded differently from paragraph 8.8. It does not say that, in the event that an appeal is allowed, then the Tribal Government must call an election. Some of the Respondents say this means that a decision by the Election Appeals Committee under Article 17 that there has been an election practice that contravenes the Election Act does not require a new election, and that it is at the discretion of the Tribal Government as to whether or not to call one. Ms. Barb Esau, on the other hand, says that allowing an appeal under Article 17 means that the Election Appeals Committee has the power to decide whether a new election should be called. The Applicant's position is the same as that of Ms. Esau.

[80] In my view, there clearly has to be a difference between the handling of elected officials who have breached Article 18 – so that an office automatically becomes vacant, and so requires a by-election to fill it – and the allowing of appeals under Article 17. An appeal under Article 17 does not automatically mean that the office of an elected official becomes vacant. Hence, the newly elected Tribunal Government remains in place even if there is a successful appeal under Article 17. Under Article 17, it is "election results" that are appealed on the basis of "election practices that contravenes the Election Act." Those election practices must contravene the Election Act, and it is left to the Election Appeals Committee to decide whether such a contravention has occurred.

[81] A breach of the Election Act is much wider than the vacancy grounds found in Article 18. As I read it, a breach of Article 18 by an elected official or officials could constitute grounds to appeal the results of the election under Article 17. However, it has to be kept in mind that, under Article 17, the Election Appeals Committee is restricted to examining "election practices that contravene the Election Act" and whether such practices should change the "election results,"

while under Article 8, the Election Appeals Committee is investigating the conduct of elected officials that may have breached Article 18, or a Schedule E declaration, in a way that has vacated his or her office.

[82] It seems clear that a recommendation under paragraph 8.8 makes it mandatory for the Tribal Government to call a by-election. If all members of the Tribal Government are found to have vacated their offices as a result of a breach of Article 18 this would probably invoke paragraph 6.3, but that paragraph does not say who can call a special election in the event that there are no Tribal Government members to do so.

[83] Under paragraph 8.6, the Election Appeal Committee must investigate, in addition to a breach of Declaration of Office and candidate conduct under Article 5, a "substantial matter brought before them relating to… Article 17, upon receiving a request to investigate." Article 8, however, does not tell us what the consequences of an Article 17 investigation and findings should be. For this we have to go to Article 17 itself and, in particular, paragraph 17.7. This is the paragraph that has particular significance for the present case. It goes to the question of whether, following a determination under Article 17, the Election Appeals Committee has the power to compel a new election, or the Tribunal Government has an obligation to call a new election.

[84] We know that a decision of the Election Appeals Committee under paragraph 17.7 is "irrevocable, binding, and final." If it is binding, irrevocable and final, then it must be binding, irrevocable and final for the Tribal Government. But what must the Tribal Government do? Some of the Respondents say that the Tribal Government needs to do nothing and it is up to the Chief and Council to decide whether a new election is required. In my view, this is untenable. It

would mean that the consequences of a binding, irrevocable and final determination that the "election results" cannot stand and a new election is required would depend upon the unfettered discretion of the officers who have gained office as a result of an unfair election. And that, in turn, would mean deadlock, strife, and the total breakdown of the democratic process that has brought such people to power. It would nullify the principles that underlie the Elections Act: that legitimate power depends upon gaining the votes and confidence of the community in a fair election. It would also de-legitimize any Tribal Government that chose to retain power in the face of a decision by the Election Appeals Committee under Article 17. It cannot have been the intention of the framers of the Election Act, and those who installed it as part of the Long Plain First Nation system of governance, that the Election Act would have this result.

[85] It is a cardinal principle of statutory interpretation that legislation should be read and interpreted in a way that gives effect to its purpose. See *Re Rizzo & Rizzo Shoes Ltd.*, [1998] 1 SCR 27 at paragraph 27. The purpose of the Election Act is to ensure fair elections that lead to legitimate government. It is not the purpose of Election Act to allow officers who may have come to power in an unfair election to remain in power at their own discretion. The Election Act must be read in a way that makes sense of its obvious purposes.

[86] What this means is that a decision under paragraph 17.7 that conduct has occurred in an election that affects election results and requires a new election must be acted upon by the Tribal Government because that decision is "irrevocable, binding and final." If the Tribal Government does not act upon that decision, then they would be treating it as non-binding in contravention of the Election Act, and this could mean that the Tribal Government has, thereby, automatically

vacated their offices under Article 18. The result would be uncertainty and chaos. Third parties would not know whether or not they are dealing with a legitimate Tribal Government.

[87] The drafting may not be as clear as it could have been, but the whole context and purpose of the Election Act leads me to conclude that a decision by the Election Appeals Committee under paragraph 17.7 that a new election should be called is binding upon the Tribal Government, and they must act upon it forthwith and call an election.

What was the decision of the Election Appeals Committee in this case?

[88] Both sides in this dispute agree that the Election Appeals Committee made a decision, but they disagree over what that decision was. If no decision was made, then this matter would have to go back to the Election Appeals Committee with either a directed verdict or an order of *mandamus* that the Election Appeals Committee do its duty under the Election Act and decide the election appeal made by the Applicant. I do not believe, however, that this is necessary. I think the decision is clear.

[89] Except for Ms. Esau, the Respondents say that the Election Appeals Committee decided the election had been fairly conducted. Hence, no new election was required. The Applicant and Ms. Esau say that the Election Appeals Committee decided that the election should be set aside, and that a new election had to be called.

[90] The key paragraph in the Decision reads as follows:

> While there were some deviations from the Long Plain Election Act as discussed above, the election process overall appears to have been fairly conducted. However, since the Election Act is a key part of the governance of the First Nation and since it was

> enacted to govern elections, we recommend that the election be set aside and an election process be undertaken following the Act as it is written.

[91] This paragraph should not be read in isolation, and should be reviewed in the full context of the Decision as a whole and the record before the Election Appeals Committee. See *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 [*Newfoundland Nurses*] at paragraphs 12-15.

[92] The Election Appeals Committee clearly and accurately identified the task before it and its obligations under the Election Act:

> Adherence to the Election Act
>
> During the course of our discussions with the Electoral Office, the Deputy Electoral Officer and other individuals including those who appealed the election, we noted that there were instances where the Election Act was not followed to the letter. In considering these deviations the Committee asked whether the deviation from the provisions of the Act would have a material effect on the outcome of the election. [Emphasis added]

[93] The Election Appeals Committee then addresses the various allegations of non-compliance with — or deviations from — the Election Act, including the "allegations that candidates conducted themselves contrary to the rules." These allegations about client conduct included "vote buying, interference with the election process and use of band funds to gain re-election." One of the Respondents, Mr. David Meeches was accused of vote buying and this was one of the things the Elections Appeal Committee had to consider and rule on.

[94] Against this background, the Decision is clear and makes good sense. Broken down, the Elections Appeal Committee found that:

a. There were some deviations from the Election Act;

b. Overall, the election process appears to have been fairly conducted.

[95] Having made these findings, the Election Appeals Committee then moves to its Decision, and this is to the effect that, even though overall the election appears to have been fairly conducted (i.e. the deviations were not widespread) those deviations that did occur require that the election be set aside and a new election called. The rationale is that the "Election Act is a key part of the governance of the First Nation." In other words, those deviations that did occur had "a material effect on the outcome of the election" so that it should be set aside.

[96] Counsel for Mr. David Meeches argues that the Decision is that "the election process overall appears to have been fairly conducted," so that the rest of the key paragraph cited above is obiter and irrelevant and should be disregarded. I cannot accept this argument for various reasons.

[97] To begin with, the words relied upon by Mr. David Meeches ("the election process overall appears to have been fairly conducted") are not a decision. They are a finding, and they are only one of the findings. The other finding is that "there were some deviations from the Long Plain Election Act." Having made these two findings, the Election Appeals Committee has to decide what should be done, and that is the Decision. And the Decision is that "the election be set aside and an election process be undertaken following the Act as it is written."

[98] Counsel for Mr. David Meeches is, in effect, asking the Court to focus upon the words that support his client's position to the exclusion of other important words and the full context of the Decision. This cannot be done.

[99] Significant debate has occurred in these proceedings over the meaning of the word "recommend." The Election Appeals Committee states in the Decision that "we recommend that the election be set aside and an election process be undertaken following the Act as it is written."

[100] Other than Ms. Esau, the Respondents argue that this can mean nothing more than a simple advisory recommendation for the Tribal Government to consider. However, the Election Appeals Committee has made it clear in the body of the Decision that its concern is with "whether the deviations from the provisions of the Act would have a material effect on the outcome of the election." Hence, if the Election Appeals Committee recommends that the election be set aside, it is doing so because it has concluded that the deviations from the Act are sufficiently material to warrant a new election.

[101] The debate about the meaning of the word "recommend" in the Election Appeal Committee's Decision is misplaced because it misses the whole point that the purpose of the Election Act is to ensure fair elections and legitimate government. In the Election Appeal Committee's opinion, and that is the only opinion that counts under the Election Act, the deviations were sufficiently material to require setting the election aside. Thus, the Tribal Government, elected during that election is not a legitimate government.

[102] In effect, apart from Ms. Esau, the Respondents are arguing before me that the Election Appeal Committee's opinion on this issue does not matter, and it is left to the Tribal Government to decide whether to act on that opinion. This, of course, would immediately lead to all of the chaos and problems I referred to earlier.

[103] I do not see any power under the Election Act for the Election Appeal Committee to decide that material deviations have occurred on a sufficient scale to warrant a new election, but then to leave it to the Tribal Government elected as a result of those material deviations to decide whether it wants to act upon the Election Appeal Committee's recommendation. In my view, this would again nullify the overall purpose of the Election Act. A decision of the Election Appeal Committee is "irrevocable, binding, and final." The Election Appeal Committee cannot, under the Election Act, delegate its authority and responsibility to investigate material deviations from the Election Act and to decide what should be the consequences of its findings and decision. Yet this is what, in effect, Mr. David Meeches is arguing before me. He is saying that notwithstanding material deviations from the Election Act sufficient to warrant a new election, the Election Appeal Committee left it to him and Council to decide whether a new election should be called. Very clear wording in the Election Act would be required to authorize such a bizarre consequence, and it just is not there. Such a result would also undermine the whole import and purpose of the Election Act. It would amount to the authorization of illegitimate government. However, quite apart from these general considerations, it is my view that the word "recommend" in the Decision does not have the meaning ascribed to it by Mr. David Meeches.

[104] Under paragraph 8.8 of the Election Act, the Election Appeal Committee's decision on whether an elected official has breached Schedule "E" or vacated his or her office as a result of the provisions of Article 18 is characterized as a recommendation, yet the consequences of that recommendation are obligatory and a by-election must be called:

> 8.8 In the event the Election Appeal Committee recommends that the elected official has vacated his or her office pursuant to a breach, the Tribunal Government shall declare the office vacant and forthwith call a By-election. The declaration shall be in the

> form of a Band Council Resolution passed at a duly convened meeting of the Tribal Government.

[105] Similarly, in the case of nomination appeals and findings of ineligibility under Article 12, paragraph 12.4, says that

> The Election Appeal Committee will discuss and make a recommendation within three (3) days of the nomination meeting as to whether or not the ineligible candidate is to be re-instated.

[106] Paragraph 12.5, says that such a "recommendation" under 12.4 is a "decision" which is binding and final:

> The decision of the Election Appeal Committee shall be binding and final.

[107] Nowhere in the Election Act can I find a "recommendation" that is not mandatory. In other words, a recommendation under the Election Act is a binding decision that must be acted upon. There is nothing in the Act, which says that the Election Appeals Committee can make a decision and then leave it to someone else (i.e. the Tribal Government) to decide whether or not to act on that decision. Paragraph 17.7 does not use the word "recommendation" but it does say, similarly to 12.5, that the decision is "irrevocable, binding and final." It does not say that the decision is not binding on the Tribal Government which is free to make up its own mind whether or not to call an election. In other words, a recommendation under the Election Act is a decision that has binding effect, and must be acted upon. It is not a simple opinion that someone else is free to take or leave. If it were, the Election Appeal Committee would be significantly neutered in its assigned role to ensure fair elections that result in a legitimate government, and a large part of its powers would be handed off to illegitimate government. There is no provision in the Election Act that allows the Election Appeal Committee to do this and the whole tenor of the Act

suggests that any such delegation or handing off is not possible. It would simply render the Election Act absurd if a Tribal Government elected in an election that materially deviates from the Election Act sufficiently to warrant a new election could ignore that conclusion, and continue to govern regardless.

[108] As the Applicant points out, the principles established by the Supreme Court of Canada in *Thomson*, above, at paragraphs 22-28 also support the conclusion that "recommend" in the present case has a binding consequence. There is wording in the Election Act, referred to above, that a "recommendation" carries more than its common and usual (non-binding) meaning. Only the Election Appeal Committee can make the final decision about Article 17 appeals. The Election Appeal Committee is not an advisor to the Tribal Government. It is fixed with dealing with appeals on corrupt conduct and unfairness and its decisions on these matters are final and binding.

[109] Apart from Ms. Esau, the Respondents rely heavily upon the interlocutory injunction decision of Justice Harrington in judicial review proceedings where Mr. David Meeches was an applicant. Those proceedings never came to a final conclusion on review and were abandoned by the applicants.

[110] On the basis of the materials and arguments that were placed before him in a hurried injunction motion, Justice Harrington concluded that

> the election appeal committee did not recommend that any elected official has vacated office due to a breach, and therefore, there is no requirement that the Tribunal Government declares an office vacant and calls a bi-election. Since article 8.8 does not apply, the word "recommend" must be given its ordinary meaning.

[111] In his interlocutory decision, Justice Harrington only dealt with the word "recommend" from the perspective of paragraph 8.8 of the Election Act. There was no finding that an official had vacated his or her office, so there was no need for a by-election. Justice Harrington was not called upon to consider and decide on the full record that is before me in this application whether a recommendation by the Election Appeal Committee that a new election be called as a result of the decision under paragraph 17.7 that is "irrevocable, binding and final" would take the word "recommend" out of its usual advisory meaning and make it a decision that must be acted upon.

[112] Consequently, Justice Harrington's decision is interlocutory, it does not raise all of the issues raised before me, and it was not made on the basis of the record that is before me. It is not, therefore, binding upon me, and I do not think it can be regarded as persuasive where Justice Harrington was not called upon to make a decision on the same basis that is before me. In the end, Justice Harrington decided that, as regards the applicants before him, who included Mr. David Meeches, there is no finding under paragraph 8.8 that they had vacated their offices. In the application before me, I agree entirely with Justice Harrington that there is no such finding. What the Election Appeal Committee found was that there had been sufficient material deviations from the Election Act to warrant setting aside the election and going through the election process again. In my view, that conclusion and decision gives a very different meaning to the word "recommend" in the context of the Election Act as a whole.

Conclusions

[113] In my view, what we see at work in the Decision is a wise and diplomatic Election Appeal Committee. Counsel for Mr. David Meeches warns that we cannot speculate about why the Election Appeal Committee did not decide this matter under Article 8, but chose instead to

recommend a whole new election. However, recent jurisprudence of the Supreme Court of Canada has directed that, in reviewing reasons, the court is quite entitled to look at the record as a way of assessing the meaning and reasonableness of a decision. See *Newfoundland Nurses*, above, at paragraph 15.

[114] When I look at the evidence before the Election Appeal Committee in this case, I see that there was evidence of vote buying. Instead of coming to conclusions on this issue the Election Appeal Committee tells us that the "allegations of vote buying present considerable challenges for the Election Appeal Committee." Rather than make recommendations on vote buying, the Election Appeal Committee decides to simply recommend a new election because of material deviations from the Election Act. It chooses not to tell us specifically what deviations it has in mind. The Election Appeal Committee would know, of course, that a decision on vote-buying and a recommendation under paragraph 8.8 would exclude the elected officials concerned from running for office again for 10 years. That could be a very unfortunate consequence for the Long Plain First Nation as well as the individuals involved. Hence, those individuals accused of vote buying should have breathed a sigh of relief that the Election Appeal Committee opted instead to treat the whole matter under Article 17 and decide that a new election was required.

[115] My conclusions are that:

a. The Election Appeal Committee not only has the power to investigate alleged breaches and compel by-elections under Article 8 of the Election Act, it also has the authority to deal with and decide election appeals under Article 17 of the Election Act and to compel elections on the basis of its decisions that are

irrevocable, final and binding upon the Tribal Government, which must act upon the Election Appeal Committee's recommendations;

b. The Election Appeal Committee decided in the present case that there were sufficient material deviations from the Election Act to warrant that the election be set aside and an election process be undertaken following the Act as it is written. The Tribal Government was compelled to accept this Decision as irrevocable, final and binding and call an election forthwith to comply with the Decision;

c. The Tribal Government had no discretion to disregard the Election Appeal Committee's Decision and treat it as advisory rather than obligatory.

[116] Consequently, it is my view that the Applicant has established his case and this judicial review will be allowed.

[117] The Respondents have not taken issue with the Court's jurisdiction to deal with this application under subsection 18.1 of the *Federal Courts Act*, and it is my view that the Reasons and Decision of the Election Appeal Committee in this case are a "decision" and a "matter" in respect of which relief is available by way of subsections 18.1 and 18.3 of the *Federal Courts Act*. See *Krause*, above, at paragraph 24.

JUDGMENT

THIS COURT'S JUDGMENT is that

1. The Court hereby declares that the Election Appeal Committee made a final and binding decision which requires new elections for the offices of Chief and Council of the Long Plain First Nation to take place.
2. The Court further declares that all relevant parties are bound by and must comply with the decision to hold new elections, including the present Tribal Government.
3. The Respondents, other than Ms. Barb Esau, shall pay the Applicant's costs which shall be fixed at the sum of $1200.

"James Russell"

Judge

FEDERAL COURT

NAME OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	T-1068-12
STYLE OF CAUSE:	**DENNIS MEECHES**
	- and -
	DAVID MEECHES, GEORGE ASSINIBOINE, MARVIN DANIELS, RUTH ROULETTE, and BARB ESAU
PLACE OF HEARING:	Winnipeg, Manitoba
DATE OF HEARING:	January 16, 2013
REASONS FOR JUDGMENT AND JUDGMENT:	HON. MR. JUSTICE RUSSELL
DATED:	February 26, 2013

APPEARANCES:

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Anthony Lafontaine Guerra	**RESPONDENTS George Assiniboine, Marvin Daniels and Ruth Roulette**
Barb Esau	**RESPONDENT Self - Represented**

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