

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

CHARLES C. ROACH

Applicant

- and-

HER MAJESTY QUEEN ELIZABETH II
represented by
THE ATTORNEY GENERAL OF CANADA

Respondent

APPLICATION

1. This action is brought by Charles Roach as plaintiff, on his own behalf and on behalf of a class of people similarly situated, seeking injunctive and declaratory relief, requiring the defendant to observe the fundamental freedoms and rights of the eligible applicants and desist from coercing them to take an oath that is against their conscience and implement administrative relief to the victims from coercion of conscience including, but not limited to:

- 1.1. An Order that the oath or affirmation contained in s. 24 of the *Citizenship Act*, R.S. 1985, c. C-29 violates sections 2(a), 2(b), 2(d) and 15(1) of the *Canadian Charter of Rights and Freedoms* (the “Charter”) and does not constitute a reasonable limit under s. 1 of the Charter, and are therefore of no force and effect.
- 1.2. a declaratory judgment that the Applicants be entitled to an exemption from the requirement of taking the citizenship oath or affirmation with the words “and be faithful to Her Majesty the Queen Elizabeth the Second, Queen of Canada, her Heirs and Successors.”

- 1.3. For a preliminary and permanent injunction restraining the Defendants from withholding the applicants grant of citizenship on the ground that they choose not to take the oath or affirmation;
 - 1.4. Such further or other relief as to this Honourable Court deems just.
2. The grounds for the application are:
- 2.1. The Applicant, Charles C. Roach, is a barrister and solicitor who resides in the City of Toronto in the Province of Ontario.
 - 2.2. The Applicant is a permanent and lawful resident of Canada and has lived in continuously in Canada for more than fifty years. He served in the Canadian Armed Forces in 1956, 1957 and 1958.
 - 2.3. The Applicant has four adult children who were born in Canada and who are Canadian citizens. The said children of the Applicant have attained full political rights and have not had to take the citizenship oath.
 - 2.4. As a British subject in Canada, the Applicant, on becoming a landed immigrant in Canada, enjoyed the full rights of a citizen for many years.
 - 2.5. These full rights included the right to stand for public office, the right to vote, the right to be employed as a public employee and generally, the right to enjoy all the benefits of a Canadian citizen.
 - 2.6. Starting in about 1977 and thereafter, the relevant laws were changed so that he was retrospectively stripped of the aforesaid rights;
 - 2.7. At the present time, the Applicant does not enjoy the right to stand for public office or the right to vote in federal, provincial or municipal elections, and the right to be employed as a public employee.
 - 2.8. The Applicant has not been allowed to become a Canadian citizen.
 - 2.9. The Applicant applied for, and is eligible for, Canadian citizenship.
 - 2.10. The Applicant has attempted to seek exemption from taking the oath or affirmation in its present form from the Defendant and various responsible government ministries without success.
 - 2.11. The Applicant has also requested of two citizenship judges that he be relieved of taking the oath or affirmation insofar as it requires him to swear to

“be faithful to Her Majesty Queen Elizabeth the Second, Queen of Canada, her Heirs and Successors.” But the said citizenship judges informed him that the oath or affirmation would not be administered to him without the inclusion of those particular words.

3. The Applicant takes issue with the form, content and religious character of the oath. Specifically, the Applicant objects to the making of any commitment of loyalty or allegiance to Her Majesty the Queen Elizabeth II her heirs and successors that is binding on his conscience, whether that commitment be evinced by way of oath or affirmation.
4. The Applicant is willing to take a modified affirmation to be a loyal Canadian citizen, to obey the laws of Canada and to fulfill his citizenship duties.
5. The Applicant believes that a public oath is the most solemn rite and that its terms must be faithfully observed. However, the citizenship oath in its present form violates his Charter rights in the following ways:
 - 5.1. Section 2(a) guarantees freedom of conscience and protects the rights of individuals to hold views based on strongly held moral ideas of right and wrong. The Applicant holds such a view which prevents him from swearing or affirming allegiance to the Her Majesty Queen Elizabeth II, her Heirs and Successors.
 - 5.2. The Applicant seeks to celebrate and enjoy his culture, heritage and historical traditions; taking of the citizenship oath in its present form is anathema to the celebration of his heritage;
 - 5.3. Further, the requirement to declare allegiance to the future heirs and successors of Her Majesty Queen Elizabeth II, requires oath-takers to blindly bind themselves to all future policies of the monarchy, an equally repugnant requirement.
 - 5.4. section 2(b) guarantees freedom of thought, belief, opinion and expression and protects individuals from being compelled into making statements contrary to their personal beliefs and opinions. The oath in its current form forces the Applicant into expressing fealty to the monarchy, an institution that he has strong

moral convictions against supporting. The continued existence of a monarchy system violates his passionate belief against racial superiority and in the equality of all human beings. The oath, therefore, is a state-compelled violation of his freedom of expression. Taking the oath would have the effect of hindering the Applicant for the rest of his life from freely expressing his sentiments regarding republicanism. Additionally, the current oath forces the Applicant into a law-imposed choice between remaining faithful to his spiritual and political beliefs or hypocritically taking the oath to gain the opportunity to enjoy Canadian citizenship.

5.5. The said oath is a pledge to the person who is head of state and not to the state itself; the symbol of the head of state is so integrally identified with the Windsor family and privilege by birth that it offends the applicants commitment to values of equal dignity and equal liberty.

5.6. Section 2(d) of the *Charter* guarantees freedom of association. The Applicant, upon taking the oath in its present form, would be barred from joining any republican associations or participating in any republican rallies or meetings. The curtailment of collective opposition and incentive for change that results from demanding loyalty to a particular theory strikes at the very heart of democracy and breached s. 2(d) of the *Charter*.

5.7. Section 15 guarantees that every individual is equal before and under the law inasmuch as it requires permanent residents who are naturalized Canadian citizens to have taken the said oath in order to attain full political rights, while the law does not require persons born in Canada to take the aforesaid oath in order to attain full political rights.

6. The Plaintiff commences this action as representative plaintiff on behalf of the members of that class of persons with common issues of fact and law pursuant to the Class Action Proceedings Act RSO 1992, 1992, c. 6, s. 5 (1).

7. The members of the said class of applicants have different ethnic and national backgrounds but each is eligible for a grant of citizenship and each objects to having to take the said oath or affirmation on the grounds of violation of their *Charter* Right to freedom of conscience *inter alia*.

8. The Plaintiff is able to advance this proceeding on behalf of the class and does not have, on the common issues for the class, an interest in conflict with the interests of other class members.

9. The following documentary evidence will be used at the hearing of this application:

- 9.1. The affidavit of Charles Roach to be filed
- 9.2. Sundry affidavits from class participants, to be filed;
- 9.3. Such further and other evidence counsel may advise and this Honourable Court may permit.

Dated at Toronto, Wednesday, December 07, 2005

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