



LAMROCK'S LAW

Kelly A. Lamrock, Q.C.

Reproductive Justice New Brunswick
BY ELECTRONIC MAIL

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Dear Colleagues:

Re: Elections Act and Candidate Pledges

You have asked me to review RJNB's proposed pledge in light of Section 126 of the *Elections Act*, which forbids candidates from signing documents which may limit their freedom of judgement as Members of the Legislative Assembly or which "requires" them to take any action.

I should note that, as there is scant case law on this section, there are few absolute certainties as to what a court would do. Candidates should take great care with signing pledges.

It is my opinion that the proposed RJNB pledge would NOT violate S.126 of the *Act*. The key word, again in my opinion, is "require". The *Act* rightly keeps candidates from taking on any legal requirement, accepting any tangible benefit as consideration, or suffering any consequence directly as the result of any position. If the pledge offered free advertising, donations or other tangible benefit, I would be of a different opinion. If the pledge prescribed any course of action such as resignation if the MLA changed positions, that would be a red flag.

This pledge carries only moral weight. It is no different than if the candidate chose to be captured on video (a common reality today) or released their own written platform telling voters how they might vote on issues. The pledge gives no rights to RJNB if the candidate breaks their word other than the usual political remedies of criticizing and voting against the candidate – all things you are free to do now. There is no benefit or penalty involved here, simply a candidate providing moral and political reasons why they should keep their word.

Indeed, were Elections NB to take a different view and attempt to sanction a candidate for signing it, I believe that interpretation of the law would raise serious issues regarding Section 2(b) of the *Charter*. A candidate has every right to signify seriousness and commitment if they wish unless they venture down the road of trading votes for benefits or avoidance of penalties.

I hope this helps and I wish your group all the best in your advocacy of reproductive choice.

Respectfully yours,

LAMROCK'S LAW

Kelly A. Lamrock, Q.C.