Law and Justice: Scott v. Canada and the History of the Social Covenant with Canadian Veterans

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Abstract
In October 2012, supported by veteran advocacy group Equitas, Canadian Forces veterans of the Afghanistan campaign filed a class action lawsuit against the Federal Government. The case, Scott v. Canada, is named after lead Plaintiff Daniel Scott. In Scott, the Plaintiffs allege that under the recently enacted Canadian Forces Members and Veterans Re-establishment and Compensation Act, commonly known as the New Veterans Charter (NVC), many veterans receive less support than under the previous Pension Act. Further, they allege that the New Veterans Charter is a contravention of the ‘social covenant’ between Canadian citizens, the Canadian government, and past and present Canadian military members and their families.

While the limited scope of this paper cannot determine if a legally binding social contract in fact exists, it will engage with the surrounding literature and suggest that there is a well-documented history of veterans enjoying a special relationship with the federal government and Canadian people in the form of legal and social entitlements. This paper will track the many reiterations of Prime Minister Robert Borden’s speech leading up to the creation of the NVC, while illuminating a historic tension between the influences of political, economic, and social policy trends and the upholding of a unique obligation towards those who have served this country militarily.

The covenant has always been contextualised by the morality of the times. But it is not just moral; it has legal aspects as well. The reason that veterans are due special treatment is intimately tied to their legal status as a member of the military with exposure to unlimited liability and regulation under the military justice system.

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