

**SUPREME COURT
OF CANADA**



**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

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Le Bulletin rassemble les procédures devant la Cour dans la langue du dossier. Quand un arrêt est rendu, on peut se procurer les motifs de jugement en adressant sa demande au registraire, accompagnée de 10 \$ par exemplaire. Le paiement doit être fait à l'ordre du Receveur général du Canada.

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**Ian Brown and Marcus Leech carrying on business
as Synchronics**

Ian Brown, Marcus Leech

v. (27995)

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Diane E. Cornish
Osler, Hoskin & Harcourt

FILING DATE 30.8.2000

Hoechst Celanese Corporation

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v. (28154)

Jean-Michel Furlan, et al. (B.C.)

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FILING DATE 27.9.2000

- and between -

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FILING DATE 28.9.2000

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Polak, McKay & Hawkshaw

FILING DATE 28.9.2000

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Fasken Martineau DuMoulin LLP

v. (28157)

Her Majesty the Queen (B.C.)

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A.G. of Canada

DATE DE PRODUCTION 28.9.2000

Sa Majesté La Reine

Jacques Mercier
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Yvan Braun

DATE DE PRODUCTION 28.9.2000

Stanley Dwyer

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FILING DATE 28.9.2000

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DATE DE PRODUCTION 28.9.2000

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FILING DATE 3.10.2000

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FILING DATE 29.9.2000

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James B. Rooney, Q.C.
Rooney Prentice

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Hordo, Ross & Bennett

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Rolf Weddigen, Q.C.
Singleton Urquhart

FILING DATE 5.10.2000

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Waxman, Dorval et associés

c. (28186)

Her Majesty the Queen (Qué.)

Yves Hamel
Hallée, Hamel

FILING DATE 6.10.2000

**APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST
ISSUE**

**DEMANDES SOUMISES À LA COUR
DEPUIS LA DERNIÈRE PARUTION**

OCTOBER 10, 2000 / LE 10 OCTOBRE 2000

**CORAM: Chief Justice McLachlin and Iacobucci and Major JJ. /
Le juge en chef McLachlin et les juges Iacobucci et Major**

Fathi Omari

v. (28049)

Her Majesty the Queen (Crim.)(B.C.)

NATURE OF THE CASE

Criminal Law - Procedural Law - Whether applicant denied *Charter* right to retain and instruct counsel; Whether Crown used part of a police report for the benefit of the Crown, without admitting all of the report to the detriment of the applicant; Whether full text of police report should have been tendered as proof of violation of s. 8 of the *Charter*; Truthfulness of an affidavit filed by defence counsel; Failure of summary conviction court of appeal to address issues.

PROCEDURAL HISTORY

| | |
|---|---|
| July 14, 1999 Provincial Court of British Columbia (Stansfield J.) | Convicted of sexual assault |
| September 8, 1999 Provincial Court of British Columbia (Stansfield J.) | Sentenced to sixty day conditional sentence followed by one year on probation |
| February 9, 2000 Supreme Court of British Columbia (Wong J.) | Appeal from conviction dismissed |
| May 11, 2000 British Columbia Court of Appeal (Southin J., in chambers) | Application for leave to appeal refused |
| August 9, 2000 Supreme Court of Canada | Application for leave to appeal filed |

L.K.W.

v. (28036)

Her Majesty the Queen (Crim.)(Ont.)

NATURE OF THE CASE

Criminal law - Procedural law - Discharge of juror - Evidence - Instructions to jury - Whether the Court of Appeal erred in law in deciding not to replace a juror who had been excused and in electing to proceed with only eleven jurors - Whether the Court of Appeal erred in law in applying for proviso having found that the trial judge erred in failing to give the appropriate limiting instruction as to the use that could be made of the Applicant's criminal record - Whether the Court of Appeal erred in law in applying the proviso having found that the trial judge erred in failing to give the appropriate limiting instruction as to the use that could be made of prior inconsistent statements - Whether the Court of Appeal erred in law in applying the proviso having found that the trial judge erred in failing to give the appropriate limiting instruction as to the use of evidence relating to other counts on the indictment.

PROCEDURAL HISTORY

| | |
|--|---|
| June 18, 1996 Superior Court of Justice (Desotti J.) | Applicant convicted on 20 counts, including sex-related offences, assault causing bodily harm, administering a noxious substance and unlawful confinement; applicant sentenced to a term of 18½ years of imprisonment |
| September 28, 1999 Court of Appeal for Ontario (Osborne A.C.J.O., Moldaver and Farley JJ.A. (<i>ad hoc</i>)) | Appeals against conviction and sentence dismissed |
| August 1, 2000 Supreme Court of Canada | Application for leave to appeal filed |

Peter John Stark

v. (27975)

Her Majesty the Queen (Crim.)(Ont.)

NATURE OF THE CASE

Criminal law - Evidence - Jail-house informant - Fresh evidence - Is the approach taken by the Ontario Court of Appeal to the determination of whether there exists a state agency relationship in accordance with the approach in *Broyles?* - Where the Respondent files fresh evidence which conflicts with an Applicant's fresh evidence, to what extent is an appellate court to resolve the conflict when deciding whether the fourth branch of the *Palmer* test has been met?

PROCEDURAL HISTORY

| | |
|--|---|
| December 1, 1994 Superior Court of Justice (Glithero J.) | Applicant's application to exclude Gerald Udall's evidence dismissed |
| May 1, 2000 Court of Appeal for Ontario (Finlayson, Carthy and O'Connor JJ.A.) | Applicant's appeal from his conviction of first degree murder dismissed |
| June 30, 2000 Supreme Court of Canada | Application for leave to appeal filed |

Bruce Holdbrook, operating as Best Print

v. (27957)

David Emeneau, Trident Construction Co. Ltd. and Atlantic Company Limited, Emeneau Construction Limited, Castlerock Entertainment Inc. and Needful Productions Ltd. (N.S.)

NATURE OF THE CASE

Commercial law - Insurance - Motor vehicles - Interpretation - Explosion caused by individual attempted to commit suicide by dousing the passenger seat of a truck with gasoline and lighting match - Engine not running - Fire and loss of commercial building - Whether the coverage provision in the Standard Automobile Policy ought to be construed according to its literal meaning and that the words "ordinary" should not be read into the provisions so as to restrict coverage - When an automobile is used for the purpose of suicide, whether the words of the Standard Automobile Policy coverage do not justify a distinction based upon whether or not the engine is running at the time of the suicide - Whether the coverage provision in the Standard Automobile Policy ought to be construed broadly and liberally.

PROCEDURAL HISTORY

| | |
|--|---------------------------------------|
| July 26, 1999 Supreme Court of Nova Scotia, Trial Division (Wright J.) | Applicant's action dismissed |
| April 7, 2000 Nova Scotia Court of Appeal (Chipman, Pugsley and Bateman JJ.A.) | Appeal dismissed |
| June 2, 2000 Supreme Court of Canada | Application for leave to appeal filed |

Her Majesty the Queen

v. (27869)

William A. Dudney (F.C.A.)

NATURE OF THE CASE

Taxation - Assessment - *Income Tax Act* - Whether the court of appeal erred in law in determining that the premises of PanCan were not a location through which the respondent carried on his business - Whether the court of appeal erred in law in determining that the premises of PanCan were not a 'fixed base regularly available' to the respondent within the meaning of Article XIV of the *Canada-United States Income Tax Convention* (1980) - Whether the court of appeal erred in law in determining the factors which it deemed necessary criterion for those premises to constitute a 'fixed base regularly available' to the respondent within the meaning of Article XIV of the Convention.

PROCEDURAL HISTORY

| | |
|---|--|
| October 30, 1998 Tax Court of Canada | Respondent's appeals from the assessments made under the |
|---|--|

| | |
|--|---|
| (Bowie J.T.C.C.) | <i>Income Tax Act</i> for the taxation years 1994 and 1995 allowed with costs, assessments were vacated |
| February 24, 2000 Federal Court of Appeal (Stone, Noël, and Sharlow JJ.A.) | Appeal dismissed with costs |
| April 26, 2000 Supreme Court of Canada | Application for leave to appeal filed |
| May 9, 2000 Supreme Court of Canada (Iacobucci J.) | Motion to extend time to April 26, 2000 to serve and file application for leave to appeal granted |

Shirley Harvey, on behalf of the estate of Alice Stinson

v. (27849)

Her Majesty the Queen in Right of the Province of British Columbia and the Attorney General of British Columbia (B.C.)

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Civil - Section 15 Equality rights - Constitutional law - *Constitution Act, 1982* s. 52 - Declaratory relief - Standing to advance the claim - Whether the court of appeal erred in law by finding that the estate did not have standing to pursue a claim for declaratory relief under s. 52 of the *Constitution Act, 1982*.

PROCEDURAL HISTORY

| | |
|--|---|
| January 6, 1999 Supreme Court of British Columbia (Satanove J.) | Applicant's application granted with costs: declaration that s.19 of the <i>Workers' Compensation Act</i> , R.S.B.C.,1996, C.492 violates s. 15 of the <i>Charter</i> |
| December 17, 1999 Court of Appeal of British Columbia (McEachern C.J.B.C., Finch and Hall JJ.A.) | Appeal allowed with costs |
| April 12, 2000 Supreme Court of Canada | Application for leave to appeal and motion for an extension of time to file application for leave to appeal to April 12, 2000 filed |
| July 24, 2000 Supreme Court of Canada | Motion for an extension of time to file reply to July 31, 2000 filed |

**CORAM: L'Heureux-Dubé, Bastarache and LeBel JJ. /
Les juges L'Heureux-Dubé, Bastarache et LeBel**

Jon Lloyd van Bergen a.k.a. John Lloyd van Bergen

v. (28079)

The United States of America (Crim.)(Alta.)

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Extradition - Judicial review - Whether the Minister failed to properly exercise her executive powers in considering the Applicant's allegation of a breach of his rights under *The Vienna Convention*, and in so doing, has erred in law, has refused to exercise her jurisdiction on the Applicant's behalf, and has acted unreasonably and furthermore has breached his rights under section 7 of the *Charter* - Whether the Minister erred in law in failing to give proper weight to the fact of the Applicant's Canadian citizenship and, in so doing, breached his rights pursuant to sections 6, 7 and 12 of *The Canadian Charter of Rights and Freedoms* - Whether the Court of Appeal failed to consider the Ministers public concerns with regard to the failure of U.S. Authorities to live up with their treaty obligations under *The Vienna Convention* in upholding her decision to extradite the Applicant to the United States.

PROCEDURAL HISTORY

August 11, 1998
Court of Queen's Bench of Alberta
(Martin J.)

Respondent's application allowed; order of committal pursuant to s. 19.2 of the *Extradition Act* issued

July 26, 2000
Court of Appeal of Alberta
(O'Leary, Wittmann and Mason JJ.A.)

Applicant's appeal from order of committal dismissed;
Applicant's application for judicial review dismissed

August 22, 2000
Supreme Court of Canada

Application for leave to appeal filed

Charles Warren Hanmore

v. (27858)

Dorothy Elizabeth Hanmore (Alta.)

NATURE OF THE CASE

Family Law - Statutes - Interpretation - Maintenance - Divorce - Whether the Alberta Court of Appeal erred in holding that no specific evidence had been called as to the amount it cost the Applicant's family to live, or why the Guideline amount would create an undue hardship rather than an inconvenience or difficulty - Whether the Court of Appeal erred in assessing what constitutes undue hardship - Whether the Court of Appeal erred in considering the Applicant's spouse was not employed outside the home, and further erred in finding that no reason had been given why the Applicant's spouse was not employed outside the home.

PROCEDURAL HISTORY

April 9, 1999
Court of Queen's Bench of Alberta
(Fraser C.J.Q.B.A.)

Order: Respondent's cross-application for a reduction of child support on the grounds of undue hardship granted

February 18, 2000

Appeal allowed

Court of Appeal of Alberta
(Sulatycky, McFadyen, and Chrumka JJ.A.)

April 18, 2000
Supreme Court of Canada

Application for leave to appeal filed

**Can-Dive Services Ltd. and Laurentian Pacific Insurance Corporation
(now called Boreal P & C Insurance Company)**

v. (27845)

**Morrison-Knudsen Company Inc., Pacific Coast Energy Corporation,
Westcoast energy Inc., and Intec engineering Inc. (B.C.)**

NATURE OF THE CASE

Commercial law - Contracts - Remedies - Estoppel - Rectification - Construction contracts - Did the Court of Appeal err in law by adopting and applying the wrong legal test in deciding that the subcontract could not be rectified on the basis of unilateral mistake or equitable estoppel? - Did the Court of Appeal err in law in holding that constructive notice of a party's mistake could not support a claim for rectification based on either unilateral mistake or equitable estoppel? - Did the Court of Appeal err in law in holding that there must be actual notice of a party's mistake before a contract may be rectified on the basis of unilateral mistake or equitable estoppel? - Did the Court of Appeal err in law in holding that the flow through provision in the subcontract prevented rectification of the subcontract?

PROCEDURAL HISTORY

May 17, 1995
Supreme Court of British Columbia (Shaw J.)

Judgment entered for the Applicants

February 9, 2000
Court of Appeal of British Columbia
(Southin, Ryan and Braidwood JJ.A.)

Respondents' appeal allowed

April 10, 2000
Supreme Court of Canada

Application for leave to appeal filed

Stasha Novak

v. (27922)

**Canadian Imperial Bank of Commerce, Dr. David S. Brown,
Parkdale Community Legal Services Inc. (Ont.)**

NATURE OF THE CASE

Procedural law - Civil Procedure - Motion for summary judgment - Rule 20 of the Ontario *Rules of Civil Procedure* - Whether the Court of Appeal erred in upholding the summary judgment dismissing the Applicant's action against the Respondents.

PROCEDURAL HISTORY

| | |
|---|--|
| November 3, 1999 Superior Court of Justice (Lamek J.) | Respondent's motion for summary judgment dismissing the action allowed |
| March 20, 2000 Court of Appeal for Ontario (Morden, Finlayson and Abella JJ.A.) | Appeal dismissed |
| May 19, 2000 Supreme Court of Canada | Application for leave to appeal filed |

United Food and Commercial Workers Union, Local 832

v. (27914)

Maple Leaf Meats (Man.)

NATURE OF THE CASE

Administrative law - Labour Law - Arbitration - Judicial review - Employee subject to last chance arbitration award providing for zero tolerance for absenteeism - Employee injured on job and time lost exceeding time allowed in arbitration award - Employer dismissed employee - Arbitrator on arbitration dealing with dismissal finding that earlier arbitration award providing strict absenteeism limit valid and applicable - Whether employee to be deemed to be absent from work so as to subject himself to dismissal - Whether an arbitrator has jurisdiction, when reinstating the employee, to impose an illegal condition which denies to the employee the ordinary protection afforded by law and by the collective agreement.

PROCEDURAL HISTORY

| | |
|--|--|
| October 5, 1999 Court of Queen's Bench of Manitoba (Kaufman J.) | Order: application to quash an arbitration award dismissed |
| March 20, 2000 Court of Appeal of Manitoba (Scott C.J.M., Kroft, and Monnin JJ.A.) | Appeal dismissed |
| May 16, 2000 Supreme Court of Canada | Application for leave to appeal filed |

**CORAM: Gonthier, Binnie and Arbour JJ. /
Les juges Gonthier, Binnie et Arbour**

K. D. J.

v. (28095)

Her Majesty the Queen (Crim.)(B.C.)

NATURE OF THE CASE

Criminal law - Young offenders - Transfer of proceedings - Aboriginal offenders - Whether the Court of Appeal erred in failing to consider aboriginal background as a relevant factor in a transfer hearing under the *Young Offenders Act*, R.S.C., 1985, c. Y-1?

PROCEDURAL HISTORY

| | |
|---|---|
| September 3, 1999 Provincial Court of British Columbia (Shupe P.C.J.) | Proceedings against the Applicant ordered to be transferred to ordinary court |
| August 16, 2000 British Columbia Court of Appeal (Lambert, Rowles and Hall JJ.A.) | Appeal dismissed |
| August 31, 2000 Supreme Court of Canada | Application for leave to appeal filed |

Her Majesty the Queen

v. (27996)

James Handy (Crim.)(Ont.)

NATURE OF THE CASE

Criminal Law - Evidence - Similar Fact Evidence - Former wife's testimony regarding respondent's past sexual acts admitted into respondent's trial for sexual assault causing bodily harm - Whether potential for collusion is a serious consideration when assessing probative value - Whether potential for collusion is a matter of weight or admissibility - Whether propensity reasoning is a proper basis for admitting similar fact evidence - Relevance of the degree of similarity between similar fact evidence and allegations underlying the charge.

PROCEDURAL HISTORY

| | |
|--|--|
| July 7, 1998 Ontario Court (General Division) (Jennings J.) | Convicted of sexual assault |
| July 24, 1998 Ontario Court (General Division) (Jennings J.) | Sentenced to two years imprisonment, credited one year for pre-trial custody |
| April 27, 2000 Court of Appeal for Ontario (Carthy, Charron, Sharpe JJ.A.) | Appeal from conviction allowed, new trial ordered |
| June 26, 2000 Supreme Court of Canada | Application for leave to appeal filed |

B. Fréreau & Fils Inc.

c. (27942)

Société Québécoise d'Assainissement des Eaux (Qué.)

NATURE DE LA CAUSE

Code civil - Droit commercial - Contrat d'entreprise - Réclamation pour travaux additionnels - Quittance comme fin de non recevoir - Erreur inexcusable - Contrat d'adhésion.

HISTORIQUE PROCÉDURAL

Le 3 novembre 1997
Cour supérieure du Québec
(Tellier j.c.s.)

Requête en jugement déclaratoire de la demanderesse
accueillie

Le 5 avril 2000
Cour d'appel du Québec
(Mailhot, Baudouin, Rousseau-Houle jj.c.a.)

Pourvoi accueilli; jugement entrepris cassé; requête en
jugement déclaratoire de la demanderesse rejetée

Le 31 mai 2000
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Harry Morison Lay

v. (28051)

Sarah Margaret Pitman Lay (Ont.)

NATURE OF THE CASE

Family law - Division of property - Divorce - Statutes - Interpretation - Sections 5(1) and 70.(3) of the Ontario *Family Law Act*, R.S.O. 1990, c. 3 - Property exclusion under marriage contract - To what extent a marriage contract signed by the parties prior to the enactment of new rights and remedies, exempts the parties from the application of these subsequently legislated rights or remedies.

PROCEDURAL HISTORY

October 16, 1998
Ontario Court (General Division)
(Speigel J.)

Order: Property of Respondent wife, as defined in marriage
contract, included in calculation of her net family property
for purposes of equalization

March 29, 2000
Court of Appeal for Ontario
(O'Driscoll (*ad hoc*), Abella, and Morden JJ.A.)

Appeal allowed

August 3, 2000
Supreme Court of Canada

Application for leave to appeal and motion extend time
filed

Blair T. Longley

v. (27927)

Her Majesty the Queen as represented by The Minister of National Revenue (B.C.)

NATURE OF THE CASE

Taxation - Political contribution tax credits - Whether the lower courts erred in finding that the Respondent's behaviour did not infringe upon the Applicant's freedom of association - Whether the lower courts erred in finding that the Respondent's statements did not defame the Applicant or in finding that the Applicant had no duty to repeat those statements to others - Whether the lower courts erred in their assessment of the quantum of compensatory or punitive damages - Whether the lower courts erred in assuming that, if Revenue Canada had been honest, nothing significant would have changed - Whether the lower courts erred in failing to make reasonable assumptions of simple probability regarding hypothetical facts concerning what would have happened but for Revenue Canada's dishonesty - Whether the lower courts erred in reversing none of the burden of proof concerning what would have happened onto the Respondent - Whether the lower courts placed too high a burden of proof upon the Applicant - Whether the lower courts erred in failing to use common sense and refuse to make obviously reasonable inferences.

PROCEDURAL HISTORY

| | |
|--|---|
| June 30, 1999 Supreme Court of British Columbia (Quijano J.) | Respondent liable for misfeasance in public office; Applicant awarded \$5,000 for loss of reputation and \$50,000 in punitive damages |
| April 10, 2000 Court of Appeal of British Columbia (Southin, Newbury, and Proudfoot JJ.A.) | Applicant's cross-appeal dismissed |
| May 19, 2000 Supreme Court of Canada | Application for leave to appeal filed |

OCTOBER 16, 2000 / LE 16 OCTOBRE 2000

**CORAM: Chief Justice McLachlin and Iacobucci and Major JJ. /
Le juge en chef McLachlin et les juges Iacobucci et Major**

Cherie Gronnerud, by her Litigation Guardians, Glenn Gronnerud and Judith Ann Farr

v. (27993)

Harold Robert (Bud) Gronnerud, as Executor of the Estate of Harold Russell Gronnerud (Sask.)

NATURE OF THE CASE

Procedural Law - Civil Procedure - Appointments of Personal Guardians, Property Guardians and Litigation Guardians - Court appoints family members as Personal, Property and Litigation Guardians of disabled woman living in rural Saskatchewan - Litigation Guardians commence claim for matrimonial interest against property held by estate of woman's deceased husband - Court of Appeal replaces Public Trustee as Property and Litigation Guardian - Responsibilities of

litigation guardians - Matrimonial property law - Whether there is confusion or potential confusion in the law - Whether a wrong was done to the disabled woman.

PROCEDURAL HISTORY

| | |
|---|---|
| December 1, 1999 Court of Queen's Bench of Saskatchewan (Gerein J.) | One applicant and respondent appointed as Personal and Property Guardians |
| December 1, 1999 Court of Queen's Bench of Saskatchewan (Gerein J.) | Both applicants appointed as Litigation Guardians |
| April 25, 2000 Court of Appeal for Saskatchewan (Bayda C.J.S., Cameron and Jackson JJ.A.) | Appointments of Property and Litigation Guardians set aside; Public Trustee appointed Property Guardian and Litigation Guardian |
| June 26, 2000 Supreme Court of Canada | Application for leave to appeal filed |

Gordon Ritchie, Grant Glowicki and Clifford Shuster

v. (27944)

Sun Life Assurance Company of Canada

and

The Attorney General of British Columbia (B.C.)

NATURE OF THE CASE

Property law - Landlord and tenant - Penalty for fraudulently carrying away or concealing property - Store employees removing all merchandise from store when rent was in arrears - Store having granted security interest to bank on all merchandise it held for resale - Landlord obtaining judgment against store and employees for double the value of the merchandise removed, as contemplated by s. 13 of the *Rent Distress Act*, R.S.B.C. 1996, c. 403 - Whether the operation of s. 13 of the *Rent Distress Act* conflicts with the operation of the *Bank Act*, S.C. 1991, c. 46 - Whether Court of Appeal erred in holding that the definition of "his or her personal property" includes tangible goods which are legally the property of a bank under security granted under the *Bank Act* - Whether Court of Appeal erred in relying on s. 3 of the *Rent Distress Act* in defining the words "personal property" in s. 13 of the Act without dealing with the constitutional conflict between the provisions of the *Bank Act* giving security to the bank and the provisions of s. 3 giving a priority to the landlord over the bank security.

PROCEDURAL HISTORY

| | |
|---|--|
| March 5, 1999 Supreme Court of British Columbia (Hardinge J.) | Respondent company's action against the Applicants granted, with special costs |
| April 4, 2000 Court of Appeal for British Columbia | Appeal regarding special costs allowed; appeal dismissed in all other respects |

(Lambert, Hall and Saunders JJ.A.)

May 30, 2000
Supreme Court of Canada

Application for leave to appeal filed

**CORAM: L'Heureux-Dubé, Bastarache and LeBel JJ. /
Les juges L'Heureux-Dubé, Bastarache et LeBel**

Jose Ronald Alexander Pimentel

v. (27931)

Her Majesty the Queen (Crim.)(Man.)

NATURE OF THE CASE

Criminal law - Admissible evidence - Reasonable doubt - Whether the Court of Appeal erred in law by ruling that the Applicant's verbal and written statements to police were admissible - Whether the Court of Appeal erred in law in ruling that the Applicant's arrest was unlawful while holding that he was not subjected to arbitrary detention - Whether the Court of Appeal erred in law by applying the test of articulable cause (detention) instead of reasonable and probable grounds (arrest) - Whether the Court of Appeal erred in law by ruling that the Applicant was not detained before his arrest - Whether the Court of Appeal erred in law by finding that the verdict in this case was not unreasonable - Whether the Court of Appeal erred in law by ruling that the trial judge erred in refusing to allow certain expert evidence and in concluding that the Applicant used a "heavy" blanket while at the same time holding that without these errors the verdict would have been the same.

PROCEDURAL HISTORY

February 25, 1999
Court of Queen's Bench of Manitoba
(McCawley J.)

Applicant convicted of unlawful act manslaughter

May 12, 2000
Court of Appeal of Manitoba
(Philp, Helper and Monnin JJ.A.)

Applicant's appeal against conviction dismissed;
Respondent's appeal from sentence dismissed

August 3, 2000
L'Heureux-Dubé J.

Motion for an extension of time granted

August 24, 2000
Supreme Court of Canada

Application for leave to appeal filed

Hung Quoc Hoang

v. (28014)

Her Majesty the Queen (Crim.)(B.C.)

NATURE OF THE CASE

Criminal law - Procedural law - Jury panel - Challenge for cause - Evidence - Charge to jury - Whether there is conflict between appellate courts concerning whether judicial notice may be taken of the fact that potential jurors may be racially prejudiced - Whether trial judges need guidance on whether and in what circumstances a charge on the dangers inherent in cross-racial identification should be furnished to a jury.

PROCEDURAL HISTORY

| | |
|--|--|
| February 29, 1996 Supreme Court of British Columbia (Melvin J.) | Applicant convicted by jury of second degree murder |
| November 29, 1999 Court of Appeal of British Columbia (Hollinrake, Ryan and Braidwood JJ.A.) | Applicant's appeal on alleged errors made by trial judge dismissed |
| July 14, 2000 Supreme Court of Canada | Application for leave to appeal filed |

McKenzie Forest Products Inc.

v. (27967)

**Adam Tilberg, Ontario Human Rights Commission,
Board of Inquiry (Human Rights Code) and the Attorney General of Ontario (Ont.)**

NATURE OF THE CASE

Administrative law - Jurisdiction - Judicial review - Human rights - Board of Inquiry - Interpretation - Subsection 39(2) of the *Human Rights Code*, R.S.O. 1990, c. H.19 - Whether the provisions in the Ontario *Human Rights Code* and the human rights legislation of several other provinces stating that the Commission shall have the carriage of the complaint before a tribunal appointed under said legislation assigns procedural priority as between the Commission and the other parties to a hearing or makes the Commission a necessary party to the hearing - What is the proper role of a provincial Human Rights Commission as a party before a tribunal appointed under its originating statute - Whether a provincial Human Rights Commission has the ability to terminate human rights proceedings in the public interest - Whether a tribunal appointed under a provincial *Human Rights Code* retains jurisdiction to continue with a hearing into the merits of a complaint where the statute provides that the Commission alone has carriage of the complaint before the tribunal and the Commission has withdrawn from the hearing and relinquished carriage of the proceedings?

PROCEDURAL HISTORY

| | |
|--|--|
| May 31, 1999 Superior Court of Justice (Divisional Court) (Smith A.C.J., Ferrier [dissenting] and Crane JJ.) | Applicant's application for judicial review granted; ruling of the Respondent Board of Inquiry set aside |
| April 18, 2000 Court of Appeal for Ontario (McMurtry C.J.O, Abella and O'Connor JJ.A.) | Respondents' appeal allowed; decision of the Divisional Court set aside and matter remitted back to the Board of Inquiry for further hearing |
| June 14, 2000 Supreme Court of Canada | Application for leave to appeal filed |

**CORAM: Gonthier, Binnie and Arbour JJ. /
Les juges Gonthier, Binnie et Arbour**

William Schiavone

v. (27915)

The Canadian Imperial Bank of Canada (Ont.)

NATURE OF THE CASE

Procedural Law - Civil Procedure - Bankruptcy - Multiplicity of proceedings - Whether a Court in Bankruptcy erred by assuming jurisdiction to hear a matter that was properly before another judge of the same Superior Court.

PROCEDURAL HISTORY

| | |
|--|---|
| May 3, 1999 Superior Court of Justice (Lax J.) | Applicant declared bankrupt, Receiving order issued, Trustee appointed |
| March 17, 2000 Court of Appeal for Ontario (Morden, Abella and O'Driscoll [<i>ad hoc</i>] JJ.A.) | Appeal dismissed |
| May 16, 2000 Supreme Court of Canada | Application for leave to appeal filed |

Golden Maple Leaf International Inc.

v. (28000)

Bowne of Canada Ltd. (Ont.)

NATURE OF THE CASE

Commercial law - Agency - mandate - Whether the scope of a solicitor's authority to contract as his/her client's agent is prescribed by the customary practice of the undertaking in question - Whether there are conflicting provincial decisions on the law of agency.

PROCEDURAL HISTORY

| | |
|--|--|
| June 12, 1998 Superior Court of Justice (Juriansz J.) | Applicant found liable to Respondent for the printing of the Prospectus calculated on the basis indicated in the estimate with costs |
| July 8, 1999 Superior Court of Justice (Juriansz J.) | Respondent's motion for an order amending the judgment granted |
| May 1, 2000 Court of Appeal for Ontario (McMurtry C.J.O., Goudge and Sharpe JJ.A.) | Applicant's appeal dismissed with costs |
| June 29, 2000 Supreme Court of Canada | Application for leave to appeal filed |

**JUDGMENTS ON APPLICATIONS
FOR LEAVE**

**JUGEMENTS RENDUS SUR LES
DEMANDES D'AUTORISATION**

OCTOBER 19, 2000 / LE 19 OCTOBRE 2000

27950 **TRANSCANADA PIPELINES LIMITED, THE CORPORATION OF THE TOWNSHIP OF BEARDMORE, THE CORPORATION OF THE TOWNSHIP OF NAKINA, THE CORPORATION OF THE TOWNSHIP OF LONGLAC, LONG LAKE 58 FIRST NATION, NISHNAWBE-ASKI NATION AND GINOOGAMING FIRST NATION - v. - HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF MUNICIPAL AFFAIRS AND HOUSING, BOB GRAY, COMMISSIONER OF THE GREENSTONE RESTRUCTURING COMMISSION** (Ont.) (Civil)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The motion for stay of execution and the applications for leave to appeal are dismissed with costs.

La requête en sursis d'exécution et les demandes d'autorisation d'appel sont rejetées avec dépens.

NATURE OF THE CASE

Municipal law - Native law - Administrative law - Municipal restructuring under the *Municipal Act*, R.S.O. 1990, c. M. 45 - Whether the Commissioner had a duty to consult with First Nations affected by reorganization - Whether the Treaty rights of aboriginal peoples can be determined on summary application - Whether the Court of Appeal correctly identified the level of deference owed to the Commission - Whether the Commission appropriately ordered the annexation of unorganized territory.

PROCEDURAL HISTORY

| | |
|---|---|
| December 31, 1997 Supreme Court of Ontario (O'Driscoll J.) | Applicants' applications for judicial review allowed; Final Proposal and Order of Greenstone Restructuring Commission quashed |
| April 5, 2000 Court of Appeal for Ontario (Weiler, Borins and Goudge JJ.A.) | Respondents' appeal allowed; Applicants' cross-appeal dismissed |
| June 2, 2000 Supreme Court of Canada | Applications for leave to appeal filed |
| August 14, 2000 Supreme Court of Canada | Application for stay of proceedings filed |

27841 **TODD BIDERMAN, MATTHEW BIDERMAN AND JUSTIN BIDERMAN - v. - HER MAJESTY THE QUEEN** (F.C.A.) (Civil)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed with costs.

La demande d'autorisation d'appel est rejetée avec dépens.

NATURE OF THE CASE

Taxation - Assessment - Statutes - Interpretation - Under the common law, can a beneficiary disclaim entitlement to a gift prior to the death of the testator?- Should paragraph 248(8)(b) of the *Income Tax Act*, S.C. 1970-71 c. 63, as amended, be interpreted as applying to the balance of section 248 and the rest of the *Act*, including paragraph 160(1)(c)?

PROCEDURAL HISTORY

July 10, 1998
Tax Court of Canada
(McArthur J.T.C.C.)

Appeals concerning Appellants' assessments dismissed

February 4, 2000
Federal Court of Appeal
(Stone, Létourneau and Malone JJ.A.)

Appeals dismissed

March 31, 2000
Supreme Court of Canada

Application for leave to appeal filed

26795 **GILLES PINSONNEAULT - c. - SA MAJESTÉ LA REINE** (Qué.) (Criminelle)

CORAM: Le Juge en chef et les juges Gonthier et Iacobucci

La demande de prorogation de délai est accordée et la demande de réexamen est rejetée.

The application for extension of time is granted and the application for reconsideration is dismissed.

27257 **CONSTANTIN TEODORESCU - c. - RICHARD BARBEAU** (Qué.) (Civile)

CORAM: Le Juge en chef et les juges Gonthier et Iacobucci

La demande de réexamen est rejetée avec dépens.

The application for reconsideration is dismissed with costs.

3.10.2000

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file
the applicant's reply**

**Requête en prorogation du délai imparti pour
signifier et déposer la réplique du requérant**

Brian Warsh, et al.

v. (27949)

International Freehold Financial Services Ltd. (Ont.)

GRANTED / ACCORDÉE Time extended to August 24, 2000.

3.10.2000

Before / Devant: LE REGISTRAIRE

**Requête visant le dépôt d'un nombre réduit
d'exemplaires**

**Motion for an order reducing the number of copies
to be filed**

Frédéric St-Jean

c. (27515)

Denis Mercier (Qué.)

GRANTED / ACCORDÉE Le nombre d'exemplaires du dossier de l'appelant est réduit à douze (12).

4.10.2000

Before / Devant: LEBEL J.

**Motion to extend the time in which to serve and file
the affidavit of Matthew Coon-Come**

**Requête en prorogation du délai imparti pour
signifier et déposer l'affidavit de Matthew Coon-
Come**

George Desnomie

v. (27972)

Her Majesty the Queen (F.C.A.)

GRANTED / ACCORDÉE Time extended to September 13, 2000.

4.10.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the respondent's factum and book of authorities

Requête en prorogation du délai imparti pour signifier et déposer le mémoire et le recueil de jurisprudence et de doctrine de l'intimée

Kingsley Michael Sutton

v. (27666)

Her Majesty the Queen (Crim.)(N.B.)

GRANTED / ACCORDÉE Time extended to September 11, 2000.

5.10.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the intervener the Evangelical Fellowship of Canada's factum and book of authorities

Requête en prorogation du délai imparti pour signifier et déposer le mémoire et le recueil de jurisprudence et de doctrine de l'intervenante l'Alliance évangélique du Canada

British Columbia College of Teachers

v. (27168)

Trinity Western University, et al. (B.C.)

GRANTED / ACCORDÉE Time extended to September 19, 2000.

5.10.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the intervener the Attorney General of Canada's factum and book of authorities

Requête en prorogation du délai imparti pour signifier et déposer le mémoire et le recueil de jurisprudence et de doctrine de l'intervenant le procureur général du Canada

Her Majesty the Queen

v. (27084)

974649 Ontario Inc. c.o.b. as Dunedin Construction (1992), et al. (Ont.)

GRANTED / ACCORDÉE Time extended to September 20, 2000.

5.10.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the appellant's book of authorities

Requête en prorogation du délai imparti pour signifier et déposer le recueil de jurisprudence et de doctrine de l'appelante

Her Majesty the Queen

v. (27555)

M.O. (Crim.)(Ont.)

GRANTED / ACCORDÉE Time extended to October 13, 2000.

5.10.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the intervener Federation of Canadian Municipalities' factum and book of authorities

Requête en prorogation du délai imparti pour signifier et déposer le mémoire et le recueil de jurisprudence et de doctrine de l'intervenante la Fédération canadienne des municipalités

Services des espaces verts Ltée / Chemlawn, et al.

c. (26937)

Ville de Hudson (Qué.)

GRANTED / ACCORDÉE Time extended to September 7, 2000 to serve and file the factum and to September 11, 2000 to serve and file the book of authorities. / Délai pour signifier et déposer le mémoire est prorogé au 7 septembre 2000 et pour signifier et déposer le recueil de jurisprudence et de doctrine au 11 septembre 2000.

5.10.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the interveners Toronto Environmental Alliance, et al.'s factum

Requête en prorogation du délai imparti pour signifier et déposer le mémoire des intervenants Toronto Environmental Alliance, et al.

Services des espaces verts Ltée / Chemlawn, et al.

c. (26937)

Ville de Hudson (Qué.)

GRANTED / ACCORDÉE Time extended to September 7, 2000 / Délai prorogé au 7 septembre 2000.

5.10.2000

Before / Devant: LE JUGE LEBEL

Requête en autorisation d'intervention et requête en prorogation de délai pour déposer un mémoire de plus 20 pages

Motion for leave to intervene and motion to extend the time in which to file a factum of over 20 pages

BY/PAR: Fédération interdisciplinaire de l'horticulture ornementale du Québec

IN/DANS: Services des espaces verts Ltée/Chemlawn, et al.

c. (26937)

Ville de Hudson (Qué.)

GRANTED / ACCORDÉES

Vu les allégations de la requête, et l'intérêt démontré dans ce dossier, la Fédération interdisciplinaire de l'horticulture ornementale du Québec est autorisée à intervenir. Elle devra déposer un mémoire d'au plus 20 pages au plus tard le vendredi 27 octobre 2000. Après le dépôt du mémoire de l'intervenante, la Cour décidera s'il y a lieu d'autoriser sa participation à l'argumentation orale lors de l'audition du pourvoi et de lui réserver du temps à cette fin.

6.10.2000

Before / Devant: LEBEL J.

Motion to extend the time in which to serve and file the application for leave

Requête en prorogation du délai imparti pour signifier et déposer la demande d'autorisation

Victor Eugene Caine

v. (28148)

Her Majesty the Queen (Crim.)(B.C.)

GRANTED / ACCORDÉE Time extended to October 31, 2000.

6.10.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the respondent's book of authorities

Requête en prorogation du délai imparti pour signifier et déposer le recueil de jurisprudence et de doctrine de l'intimée

Karl Find

v. (27495)

Her Majesty the Queen (Crim.)(Ont.)

GRANTED / ACCORDÉE Time extended to October 13, 2000.

6.10.2000

Before / Devant: LEBEL J.

Motion to extend the time in which to serve and file the application for leave

Requête en prorogation du délai imparti pour signifier et déposer la demande d'autorisation

David Malmö-Levine

v. (28026)

Her Majesty the Queen (Crim.)(B.C.)

GRANTED / ACCORDÉE Time extended to October 31, 2000.

11.10.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the respondent's factum, record and book of authorities

Requête en prorogation du délai imparti pour signifier et déposer le mémoire, le dossier et le recueil de jurisprudence et de doctrine de l'intimée

Willis Barclay Frederick Boston

v. (27682)

Shirley Isobel Boston (Ont.)

GRANTED / ACCORDÉE Time extended to October 6, 2000.

11.10.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the factum and book of authorities of the intervener the Attorney General of Manitoba

Requête en prorogation du délai imparti pour signifier et déposer le mémoire et le recueil de jurisprudence et de doctrine de l'intervenant le procureur général du Manitoba

Dwayne W. Hynes

v. (27443)

Her Majesty the Queen (Crim.)(Nfld.)

GRANTED / ACCORDÉE Time extended to September 29, 2000, *nunc pro tunc*.

11.10.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which serve and file the appellant's factum, record and book of authorities

Requête en prorogation du délai imparti pour signifier et déposer le mémoire, le dossier et le recueil de jurisprudence et de doctrine de l'appelante

BDO Dunwoody Limited, Trustee of the Estate of Nicole Marie Berthelette, a bankrupt, et al.

v. (27501)

Superintendent of Bankruptcy (Man.)

GRANTED / ACCORDÉE Time extended to February 8, 2001.

11.10.2000

Before / Devant: LEBEL J.

Motion to extend the time in which to serve and file the application for leave

Requête en prorogation du délai imparti pour signifier et déposer la demande d'autorisation

Marc Teahan

v. (27999)

Her Majesty the Queen (Ont.)

GRANTED / ACCORDÉE Time extended to September 18, 2000.

12.10.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the respondent's response

Requête en prorogation du délai imparti pour signifier et déposer la réponse de l'intimée

Janice Johnson, in her capacity as tutrix to Tyler Théroux, et al.

v. (28166)

The Lester B. Pearson School Board (Que.)

GRANTED / ACCORDÉE Time extended to December 15, 2000.

12.10.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the appellant's factum

Requête en prorogation du délai imparti pour signifier et déposer le mémoire de l'appelante

Osoyoos Indian Band

v. (27408)

The Town of Oliver, et al. (B.C.)

GRANTED / ACCORDÉE Time extended to October 2, 2000, *nunc pro tunc*.

12.10.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the respondent's response

Requête en prorogation du délai imparti pour signifier et déposer la réponse de l'intimée

Bridgesoft Systems Corporation

v. (28047)

Her Majesty the Queen in Right of the Province of British Columbia (B.C.)

GRANTED / ACCORDÉE Time extended to September 28, 2000.

12.10.2000

Before / Devant: BINNIE J.

Motion for extension of time and leave to intervene

Requête en prorogation de délai et en autorisation d'intervenir

BY/PAR: Ontario Trial Lawyers Association

IN/DANS: Daphne Whiten, et al.

v. (27229)

Pilot Insurance Company, et al. (Ont.)

GRANTED / ACCORDÉE

UPON APPLICATION by the Ontario Trial Lawyers Association for an extension of time and for leave to intervene in the above appeal;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

- 1) The motion for an extension of time and for leave to intervene of the applicant Ontario Trial Lawyers Association is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length no later than November 3, 2000.

The request to present oral argument is deferred to a rota judge following receipt and consideration of the written arguments of the parties and the interveners.

The intervener shall not be entitled to adduce further evidence or otherwise to supplement the record of the parties.

Pursuant to Rule 18(6) the intervener shall pay to the appellant and respondent any additional disbursements occasioned to the appellant and respondent by the intervention.

13.10.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the factum and book of authorities of the intervener the Attorney General of British Columbia

Requête en prorogation du délai imparti pour signifier et déposer le mémoire et le recueil de jurisprudence et de doctrine du procureur général de la Colombie-Britannique

Her Majesty the Queen in Right of Ontario

v. (27084)

974649 Ontario Inc. c.o.b. as Dunedin Construction (1992), et al. (Ont.)

GRANTED / ACCORDÉE Time extended to September 25, 2000.

13.10.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the respondent's record, factum and book of authorities

Requête en prorogation du délai imparti pour signifier et déposer le dossier, le mémoire et le recueil de jurisprudence et de doctrine de l'intimée

Kenneth Deane

v. (27776)

Her Majesty the Queen (Crim.)(Ont.)

GRANTED / ACCORDÉE Time extended to September 18, 2000 to serve and file the record and to September 27, 2000 to serve and file the factum and book of authorities.

13.10.2000

Before / Devant: LE JUGE LEBEL

Requête en vue d'obtenir une ordonnance enjoignant de sceller certaines parties du dossier des appelants

Motion for an order that portion of the appellants' record be sealed

2858-0702 Québec Inc., et al.

c. (27324)

Lac d'Amiante du Québec Ltée (Qué.)

GRANTED / ACCORDÉE Volume IIB of the appellants' record which includes Exhibits R-3 through R-6 appearing at pages 283 through 305 is sealed to the public.

13.10.2000

Before / Devant: LEBEL J.

Motion to extend the time in which to serve and file the application for leave

Requête en prorogation du délai imparti pour signifier et déposer la demande d'autorisation

C.J.C.

v. (28189)

Her Majesty the Queen (Ont.)

GRANTED / ACCORDÉE Time extended to October 16, 2000.

16.10.2000

Before / Devant: THE REGISTRAR

**Motion for an order permitting the appellant to
amend its factum and record**

**Requête autorisant l'appelante de modifier son
mémoire et son dossier**

The Law Society of British Columbia

v. (27108)

Jaswant Singh Mangat, et al. (B.C.)

GRANTED / ACCORDÉE

29.9.2000

Bank of America Canada

v. (27898)

Clarica Trust Company et al. (Ont.)

11.10.2000

Roger Guignard

c. (27704)

Ville de Saint-Hyacinthe (Qué.)

13.10.2000

Her Majesty the Queen

v. (27724)

Jack Walls, et al. (F.C.A.)

**NOTICE OF DISCONTINUANCE
FILED SINCE LAST ISSUE**

**AVIS DE DÉSISTEMENT DÉPOSÉS
DEPUIS LA DERNIÈRE PARUTION**

6.10.2000

Lorne Brown, et al.

v. (27150)

**Regional Municipality of Durham Police Service
Board (Ont.)**

(appeal)

**APPEALS HEARD SINCE LAST ISSUE
AND DISPOSITION**

**APPELS ENTENDUS DEPUIS LA
DERNIÈRE PARUTION ET
RÉSULTAT**

10.10.2000

CORAM: The Chief Justice and L'Heureux-Dubé, Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour and LeBel JJ.

Huor Chieu

David Matas, for the appellant Chieu.

v. (27107)

Rod Holloway and Christopher Elgin, for the appellant Al Sagban.

Minister of Citizenship and Immigration (F.C.A.)

Brian A. Crane, Q.C. and Krista Daley, for the intervener Immigration and Refugee Board.

- and between -

Ahmad Abdulaal Al Sagban

Lorne Waldman and Carol Simone Dahan, for the intervener Canadian Council of Churches.

v. (27111)

Judith Bowers, Q.C., for the respondent.

Minister of Citizenship and Immigration (F.C.A.)

RESERVED / EN DÉLIBÉRÉ

Nature of the case (Chieu #27107):

Nature de la cause (Chieu #27107):

Immigration - Statutes - Interpretation - Whether under s. 70(1)(b) of the *Immigration Act*, the Immigration Appeal Division may not consider the country and its conditions to which a non-refugee Appellant might be removed when assessing whether “the person should not be removed from Canada”.

Immigration - Lois - Interprétation - Sous le régime de l'art. 70(1)(b) de la *Loi sur l'immigration*, la section d'appel de la Commission de l'immigration et du statut de réfugié peut-elle examiner la situation du pays où l'appelant qui n'est pas un réfugié risquerait d'être renvoyé lorsqu'il s'agit de déterminer s'«il[...] ne devrai[t] pas être renvoyé[...] du Canada»?

Nature of the case (Al Sagban # 27111):

Nature de la cause (Al Sagban # 27111):

Immigration - Statutes - Interpretation - Whether the Immigration and Refugee Appeal Board may consider “all of the circumstances of the case” pursuant to par.agraph 70(1)(b) of the *Immigration Act*, R.S.C., 1985, c. I-12, as amended, in determining the country to which a person is likely to be removed and consider the conditions in that country, including the possible harm that could befall an individual in that country.

Immigration - Lois - Interprétation - La section d'appel de la Commission de l'immigration et du statut de réfugié peut-elle examiner toutes les «circonstances particulières de l'espèce» aux termes de l'alinéa 70(1)(b) de la *Loi sur l'immigration*, L.R.C. (1985), ch. I-12, sous sa forme modifiée, pour déterminer le pays vers lequel une personne sera vraisemblablement expulsée et prendre en compte la situation qui prévaut dans ce pays, y compris le risque de danger auquel s'expose un individu vivant dans ce pays?

11.10.2000

CORAM: Les juges L'Heureux-Dubé, Gonthier, Major, Bastarache, Binnie, Arbour et LeBel.

Christian Noël

Paule Lafontaine et Paul Faribault, pour l'appelant.

c. (26914)

Jean Beaugard, pour l'intimée.

**La Société d'énergie de la Baie James (SEBJ) et
Syndicat des métallurgistes unis d'Amérique, local
6833, (FTQ) (Qué.)**

Laurent Roy et Christiane Morrisseau, pour le mis-en-
cause.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Nature de la cause:

Labour law - Administrative law - Arbitration - Judicial review - Jurisdiction - Action in direct nullity under art. 33 of the *Code of Civil Procedure*, R.S.Q., c. C-25, instituted personally by an employee governed by a collective agreement - Union having exclusive power of representation - Whether union member has the necessary interest to personally institute a direct action in nullity against an arbitral award upholding dismissal of the employee - If so, whether the issue is *res judicata*.

Droit du travail - Droit administratif - Arbitrage - Contrôle judiciaire - Compétence - Action directe en nullité en vertu de l'art. 33 du *Code de procédure civile*, L.R.Q., ch. C-25, intentée personnellement par un salarié régi par une convention collective - Pouvoir exclusif de représentation du syndicat - Un syndiqué a-t-il l'intérêt requis afin d'intenter lui-même une action directe en nullité contre une sentence arbitrale qui maintient son congédiement? - Si oui, y a-t-il chose jugée en l'espèce?

13.10.2000

CORAM: Chief Justice McLachlin and L'Heureux-Dubé, Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour and LeBel JJ.

Her Majesty the Queen

Robert Kelly, for the appellant.

v. (27555)

M.O. (Crim.)(Ont.)

Christopher A.W. Bentley, for the respondent.

THE CHIEF JUSTICE (orally):

We would all allow the appeal and order a new trial substantially for the reasons of Mr. Justice Rosenberg.

LE JUGE EN CHEF (oralement):

Nous sommes tous d'avis d'accueillir le pourvoi et d'ordonner un nouveau procès, essentiellement pour les motifs exposés par le juge Rosenberg.

13.10.2000

CORAM: Chief Justice McLachlin and L'Heureux-Dubé, Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour and LeBel JJ.

Karl Find

v. (27495)

Her Majesty the Queen (Crim.)(Ont.)

David M. Tanovich and Umberto Sapone, for the appellant.

David M. Paciocco, for the intervener the Criminal Lawyers' Association (Ontario).

Jamie Klukach and Jennifer Woolcombe, for the respondent.

No one appearing for the intervener the Attorney General of Alberta (written submission only, Jack Watson, Q.C.).

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Criminal law - Jurors - Application by Appellant to challenge prospective jurors on the basis of the nature of the charge - Whether the majority of the Court of Appeal erred in holding that the Appellant had failed to establish a reasonable possibility that there exists generic prejudice against individuals charged with sexual offences.

Nature de la cause:

Droit criminel - Jurés - Demande de l'appellant visant à récuser des candidats-jurés sur la base de la nature de l'accusation - La Cour d'appel à la majorité a-t-elle commis une erreur en concluant que l'appellant n'avait pas établi une possibilité raisonnable qu'il existe un préjudice fondé sur le genre contre les individus accusés d'infractions de nature sexuelle?

WEEKLY AGENDA

ORDRE DU JOUR DE LA SEMAINE

AGENDA for the week beginning October 30, 2000.

ORDRE DU JOUR pour la semaine commençant le 30 octobre 2000.

The Court will not be sitting on the week beginning October 23, 2000

La Cour ne siègera pas la semaine commençant le 23 octobre 2000

| <u>Date of Hearing/ Date d'audition</u> | <u>File/ Dossier</u> | <u>Case Number and Name/ Numéro et nom de la cause</u> |
|---|--------------------------|---|
| 2000/10/30 | 27121 | Travailleurs et travailleuses unis de l'alimentation et du commerce, local 500, et al. c. Ivanhoe Inc., et al. (Qué.) (Civile) (Autorisation) |
| 2000/10/30 | 27291 | Ville de Sept-Iles c. Le Syndicat canadien de la fonction publique, Section locale 2589, et al. (Qué.) (Civile) (Autorisation) |
| 2000/10/31 | 27060 | Pepsi-Cola Canada Beverages (West) Ltd. v. Retail, Wholesale and Department Store Union Local 558, et al. (Sask.) (Civil) (By Leave) |
| 2000/10/31 | 27118 | Mary Danyluk v. Ainsworth Technologies Inc., et al. (Ont.) (Civil) (By Leave) |
| 2000/11/01 | 27295 | Sa Majesté la Reine du chef du Canada c. Bernard Miller (Qué.) (Civile) (Autorisation) |
| 2000/11/01 | 27307 | Monit International Inc. c. Bernard Miller (Qué.) (Civile) (Autorisation) |
| 2000/11/02 | 27152 | Barreau du Québec c. Simon Fortin, et al. (Qué.) (Civile) (Autorisation) |

NOTE:

This agenda is subject to change. Hearing dates should be confirmed with Registry staff at (613) 996-8666.

Cet ordre du jour est sujet à modification. Les dates d'audience devraient être confirmées auprès du personnel du greffe au (613) 996-8666.

27121 *United Food and Commercial Workers, Local 500 et al. v. Ivanhoe Inc. et al.*

Labour law—Administrative law—Certification—Judicial review—Operation by another in part of an undertaking—Janitorial services—Transfer of rights and obligations under s. 45 of the *Labour Code*, R.S.Q. 1977, c. C-27—Retrocession and successive operation by others of an undertaking—Transfer of certification for janitorial employees under s. 45 when Ivanhoe initially transferring operation of undertaking to another—Termination of contract—Ivanhoe then assigning janitorial services to four new contractors—Whether the Court of Appeal erred in refusing to intervene and quash the lower court decisions holding that s. 45 applied to contracts for services, thus returning to the functional concept of an undertaking, which was dismissed in *U.E.S., Local 298 v. Bibeault*, [1988] 2 S.C.R. 1048, and *Lester (W.W.) (1978) Ltd. v. United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry, Local 740*, [1990] 3 S.C.R. 644—Whether the Court of Appeal erred in ruling that applying s. 45 to cases of retrocession and successive operation by others does not violate the principle of continuity—Whether the Court of Appeal erred in interpreting s. 41 of the *Labour Code* in such a way as to prevent Ivanhoe from having the union membership examined and its certification cancelled—Whether the Court of Appeal erred in refusing to transfer the collective agreement negotiated with the initial operator or, alternatively, the previous agreement with Ivanhoe to the new contractors.

Ivanhoe Inc. used to provide its own janitorial services for its buildings. The appellant union was the certified representative of Ivanhoe's janitorial staff. On February 27, 1989, Ivanhoe discontinued those services and assigned overall responsibility for their provision to the contractor Moderne service d'entretien d'immeubles Inc. ("Moderne"). Ivanhoe then transferred its entire janitorial staff to Moderne. Moderne and the union entered into a new collective agreement that year. Moderne's contract for janitorial services ended August 31, 1991, whereupon Moderne dismissed the 110 janitorial employees responsible for Ivanhoe's buildings. Ivanhoe then hired four contractors to provide janitorial services. None of Moderne's employees was hired by those contractors. Claiming operation by another of an undertaking, the union brought a motion under ss. 45 and 46 of the *Labour Code*, R.S.Q. 1977, c. C-27. Ivanhoe brought a motion under s. 41 of the *Labour Code* for examination of the union membership and cancellation of the 1974 certification. The labour commissioner allowed the union's motion in part and found that its certification had been transferred to the four new contractors. He did not recognize the transfer of the collective agreement signed with Moderne. The motion for examination of the membership and cancellation of the certification was dismissed. The Labour Court upheld the commissioner's decision and dismissed the appeals brought by the union, Ivanhoe and the four contractors. The Superior Court dismissed the various parties' applications for judicial review. All but 2621-3429 Québec Inc. appealed to the Court of Appeal. For different reasons, the judges of that Court dismissed all four appeals.

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| Origin of the case: | Quebec |
| File No.: | 27121 |
| Judgment of the Court of Appeal: | December 2, 1998 |
| Counsel: | Robert Laurin, Serge Benoît and Jean-Marc Brodeur for the Appellants Serge Benoît, Jean-Marc Brodeur and Benoît Belleau for the Respondents |

27121 *Travailleurs et Travailleuses unis de l'alimentation et du commerce, section 500 et al. c. Ivanhoe Inc. et al.*

Droit du travail - Droit administratif - Accréditation - Contrôle judiciaire - Concession partielle d'une entreprise - Entretien ménager - Transmission des droits et obligations selon l'art. 45 du *Code du travail*, L.R.Q. 1977, ch. C-27 - Rétrocession et concessions successives d'entreprise - Transfert de l'accréditation visant les employés affectés à l'entretien ménager lors d'une première concession d'entreprise par Ivanhoe inc., conformément à l'art. 45 - Fin du contrat - Ivanhoe confiant ensuite à quatre nouveaux entrepreneurs l'entretien ménager - La Cour d'appel a-t-elle erré en refusant d'intervenir pour casser les décisions des instances inférieures qui ont conclu à l'application de l'art. 45 à des contrats de fourniture de services, revenant ainsi à la notion fonctionnelle de l'entreprise qui avait été rejetée dans *U.E.S., local 298 c. Bibeault*, [1988] 2 R.C.S. 1048, et dans *Lester (W.W.)(1978) Ltd. c. Association unie des compagnons et apprentis de l'industrie de la plomberie et de la tuyauterie, section locale 740*, [1990] 3 R.C.S. 644? - La Cour d'appel a-t-elle erré en décidant que l'application de l'art. 45 à des cas de rétrocession et de concessions successives ne viole pas le principe de continuité? - La Cour d'appel a-t-elle erré en interprétant l'art. 41 *C.tr.* de façon à refuser à Ivanhoe la possibilité de faire vérifier les effectifs syndicaux et de révoquer, à son endroit, l'accréditation du syndicat? - La Cour d'appel a-t-elle erré en refusant de transférer chez les nouveaux entrepreneurs la convention collective négociée chez le premier concessionnaire ou, subsidiairement, celle qui avait antérieurement été conclue avec Ivanhoe?

Ivanhoe inc. effectuait elle-même l'entretien ménager de ses immeubles. Le syndicat appelant détenait une accréditation visant uniquement les employés d'Ivanhoe affectés à l'entretien ménager. Le 27 février 1989, Ivanhoe cesse d'effectuer l'entretien ménager de ses immeubles et en confie la responsabilité globale à l'entrepreneur Moderne service d'entretien d'immeubles inc. (ci-après "Moderne") Ivanhoe transfère alors tous ses employés affectés à l'entretien ménager à Moderne. Une nouvelle convention collective intervient la même année entre le syndicat et Moderne. Le contrat d'entretien ménager de Moderne se termine le 31 août 1991. Moderne congédie à cette date ses 110 salariés qui veillaient à l'entretien des édifices d'Ivanhoe. Ivanhoe retient ensuite quatre entreprises pour l'exécution de l'entretien ménager. Aucun des employés de Moderne n'est repris par ces entreprises. Alléguant qu'il y avait eu concession d'entreprise, le syndicat dépose une requête en vertu des art. 45 et 46 du *Code du travail*, L.R.Q. 1977, ch. C-27. Ivanhoe dépose pour sa part une requête en vertu de l'art. 41 *C.tr.* pour obtenir la révision des effectifs du syndicat et la révocation de l'accréditation obtenue en 1974. Le commissaire du travail a accueilli en partie la requête du syndicat et a constaté le transfert de son accréditation aux quatre nouveaux entrepreneurs. Il n'a pas reconnu pas le transfert de la convention collective signée avec Moderne. La requête en révision d'effectifs et révocation d'accréditation fut rejetée. Le Tribunal du travail a confirmé la décision du commissaire et rejette les pourvois interjetés par le syndicat et par Ivanhoe et les quatre entrepreneurs. La Cour supérieure a rejeté les requêtes en révision judiciaire présentées par les différentes parties. Tous, à l'exception de 2621-3249 Québec inc., interjettent appel devant la Cour d'appel. Pour des motifs différents, les juges de la Cour rejettent les quatre appels.

Origine: Québec

N° du greffe: 27121

Arrêt de la Cour d'appel: Le 2 décembre 1998

Avocats: Me Robert Laurin, Me Serge Benoît et Me Jean-Marc Brodeur pour les appelants
Me Serge Benoît, Me Jean-Marc Brodeur et Me Benoît Belleau pour les intimés

27291 *City of Sept-Îles v. Canadian Union of Public Employees, Local 2589, Labour Court, 2862-3775 Québec inc. and Services sanitaires du St-Laurent inc.*

Labour law – Administrative law – Certification – Judicial review – Partial operation by another of an undertaking – Removal of household garbage – Transfer of rights and obligations under section 45 of the *Labour Code*, R.S.Q. 1977, c. C-27 – Whether mere subcontract awarded without transfer of employees, technology, equipment or anything else, apart from functions, amounts to the operation by another of an undertaking under section 45 of the *Labour Code* – Whether employer having no latitude or independent management power and being legally subordinate in performing duties assigned by subcontract are relevant factors in determining whether section 45 of the *Labour Code* applies – Whether decisions of the Labour Court holding that mere transfer of right to operate is sufficient to constitute the transfer of an undertaking within the meaning of section 45 of the *Labour Code* are contrary to the principles laid down by the Supreme Court as resuscitating the functional economic vehicle theory rejected in *U.E.S., Local 298 v. Bibeault*, [1988] 2 S.C.R. 1048 – Whether mere transfer of the right to operate without other authority can constitute an organization of activities or a portion of an undertaking sufficiently distinguishable to be severable from the whole, within the meaning of *Lester (W.W.) (1978) Ltd. v. United Association of Journeyman and Apprentices of the Plumbing and Pipefitting Industry, Local 740*, [1990] 2 S.C.R. 644 – Whether the legislative amendment of section 46 of the *Labour Code* subsequent to *Bibeault* permits lower tribunals to ignore the principles laid down by the Supreme Court.

The Respondent Canadian Union of Public Employees, Local 2589 (the “Union”), was certified on May 19, 1982, to represent all manual employees of the appellant City of Sept-Îles. While there was a collective agreement between the Union and the municipality in effect from October 1, 1990 to September 30, 1993 (extended to September 30, 1995), the municipality decided to award several contracts for the collection of municipal garbage within its boundaries. The collective agreements applicable to manual employees since December 1968 had permitted subcontracts to be awarded on substantially the same terms as the collective agreement in issue here, which were that subcontracts could not result in the layoff of any Union members or reduction in wages or loss of benefits.

On January 28, 1993, the Union filed two motions with the Labour Commissioner General under section 45 of the Labour Code seeking a declaration that the certification and the collective agreement by which the municipality was bound had been transferred to the contractors. On August 31, 1994, the labour commissioner allowed the Union’s motions and found that the awarding of the contracts constituted the partial operation by another of an undertaking, within the meaning of section 45.

The City and the contractors also brought a separate application for leave to appeal the decision of the commissioner to the Labour Court. The Court allowed the applications. On May 12, 1995, it dismissed the appeals and affirmed the decision of the labour commissioner.

The City applied for judicial review. On February 21, 1996, the Superior Court allowed the application and set aside the decision of the Labour Court on the ground that it had ignored the principles laid down by the Supreme Court in *U.E.S., Local 298 v. Bibeault*, [1988] 2 S.C.R. 1048, and was therefore patently unreasonable. On March 16, 1999, the Court of Appeal unanimously allowed the appeal by the Union, from the bench, and restored the decision of the Labour Court.

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| Origin of the case: | Que. |
| File No. | 27291 |
| Judgment of the Court of Appeal: | March 16, 1999 |
| Counsel: | Claude Bureau for the appellant Richard Gauthier for the respondent Canadian Union of Public Employees, Local 2589 Yvan Bujold for the respondent Services Sanitaires du St-Laurent inc. |

27291 *Ville de Sept-Îles c. Le Syndicat canadien de la fonction publique, section locale 2589, Tribunal du travail, 2862-3775 Québec inc. et Services sanitaires du St-Laurent inc.*

Droit du travail - Droit administratif - Accréditation - Contrôle judiciaire - Concession partielle d'une entreprise - Enlèvement d'ordures ménagères - Transmission des droits et obligations selon l'article 45 du *Code du travail*, L.R.Q. 1977, ch. C-27 - L'octroi d'un simple contrat de sous-traitance, sans transfert d'employés, de technologie, d'équipement ou de quoi que ce soit, hormis des fonctions, peut-il constituer une concession d'entreprise en vertu de l'article 45 du *Code du travail*? - L'absence de latitude et de pouvoir de gestion autonome de même que la subordination juridique de l'entrepreneur dans l'accomplissement des tâches confiées en sous-traitance sont-ils des facteurs pertinents dans la détermination de l'application de l'article 45 du *Code du travail*? - La jurisprudence du Tribunal du travail, à l'effet que l'unique cession d'un droit d'exploitation est suffisant pour constituer une cession d'entreprise au sens de l'article 45 du *Code du travail*, va-t-elle à l'encontre des enseignements de la Cour suprême en ce qu'elle ressuscite la théorie fonctionnelle de l'entreprise rejetée dans l'arrêt *U.E.S., local 298 c. Bibeault*, [1988] 2 R.C.S. 1048? - Le simple transfert d'un droit d'exploitation sans autre attribut peut-il constituer un ensemble organisé d'activités ou une partie de l'entreprise susceptible d'être distinguée d'un tout capable d'une existence autonome au sens de l'arrêt *Lester (W.W.)(1978) Ltd. c. Association unie des compagnons et apprentis de l'industrie de la plomberie et de la tuyauterie, section locale 740*, [1990] 3 R.C.S. 644? - La modification législative de l'article 46 du *Code du travail*, postérieure à l'arrêt *Bibeault*, autorise-t-elle les tribunaux inférieurs à faire fi des enseignements de la Cour suprême?

L'intimé, le Syndicat canadien de la fonction publique, section locale 2589 (ci-après Syndicat), représente tous les employés manuels salariés de l'appelante Ville de Sept-Îles. Alors qu'une convention collective en vigueur du 1er octobre 1990 au 30 septembre 1993 (prolongée jusqu'au 30 septembre 1995) liait le Syndicat et la municipalité, cette dernière décide d'octroyer différents contrats relativement à la cueillette des ordures ménagères sur son territoire. Depuis le 1er décembre 1968, les conventions collectives applicables aux employés manuels autorisent l'octroi de sous-contrats substantiellement aux mêmes conditions que la convention collective pertinente au présent litige, à savoir que les sous-contrats ne doivent entraîner aucune mise à pied chez les membres du Syndicat ni aucune baisse de salaire ou perte de bénéfice.

Le 28 janvier 1993, le Syndicat dépose devant le commissaire général du travail deux requêtes en vertu de l'article 45 du *Code du travail* visant à faire constater la transmission de l'accréditation et de la convention collective liant la municipalité aux entrepreneurs. Le 31 août 1994, le commissaire du travail accueille les requêtes du Syndicat en concluant que l'octroi des contrats constituait une concession partielle d'entreprise au sens de l'article.

La Ville ainsi que les entrepreneurs présentent séparément une requête pour permission d'appeler de la décision du commissionnaire devant le Tribunal du travail. Le Tribunal accorde les requêtes. Le 12 mai 1995, il rejette les appels et confirme la décision du commissaire du travail.

La Ville présente une requête en révision judiciaire. Le 21 février 1996, la Cour supérieure accueille la requête et annule la décision du Tribunal du travail au motif qu'elle fait fi des principes formulés par la Cour suprême dans l'arrêt *U.E.S., local 298 c. Bibeault*, [1988] 2 R.C.S. 1048, et qu'elle est donc manifestement déraisonnable. Le 16 mars 1999, la Cour d'appel accueille à l'unanimité, séance tenante, le pourvoi du Syndicat et rétablit la décision du Tribunal du travail.

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| Origine: | Qué. |
| N° du greffe: | 27291 |
| Arrêt de la Cour d'appel: | Le 16 mars 1999 |
| Avocats: | Me Claude Bureau pour l'appelante Me Richard Gauthier pour l'intimé Le Syndicat canadien de la fonction publique, section locale 2589 Me Yvan Bujold pour l'intimée Services Sanitaires du St-Laurent inc. |

27060 *Pepsi-Cola Canada Beverages (West) Ltd. v. Retail, Wholesale and Department Store Union Local 558 et al*

Labour law - Picketing - Secondary Picketing - Injunction - Secondary picketing at common law - Whether the majority of the Saskatchewan Court of Appeal erred in determining that secondary picketing was not illegal *per se* at common law.

The Appellant is Pepsi-Cola Beverages (West) Ltd. The Respondents are Retail, Wholesale and Department Store Union Local 558 and Garry Burkart and Linda Reiber. On May 15th, 1997, during the renegotiating of an expired collective bargaining agreement, a labour-management dispute arose which resulted in a strike and lockout. Several striking employees took control of the company's warehouse, office and yard. They effectively prevented the company from using the premises.

Allbright J. granted an interim injunction and ordered that the striking employees vacate the company's premises, refrain from further acts of trespass, intimidation, and nuisance, but left them free to peacefully picket the site. The Appellant regained control of the premises and continued to carry on business with management and other personnel brought in from other cities.

Some of the striking employees were embittered over the Appellant's use of other personnel to perform their work, especially to drive the company's delivery trucks, so they responded by committing acts, some of which were of a violent nature. The striking employees' efforts were directed at hindering the movement of the trucks and delivery of the products in and around the City, and to discourage the company's management personnel and substitute work force, and to dissuade the company's customers from buying its products. They obstructed the passage of the trucks, tampered with the trucks and harassed the drivers. On two occasions several employees obstructed the entry of the trucks, banging on the doors of one of the trucks and generally threatening the drivers; they blocked a truck attempting to deliver products to a Mohawk outlet. Some striking employees also approached the proprietors of two Macs' convenience stores in order to ask them not to take delivery of Pepsi-Cola products.

Three employees picketed outside the Delta Bessborough Hotel, where some of the company's out-of-town personnel were staying. They carried placards and walked up and down the sidewalk. A day or two later, two striking employees, accompanied by one or two others, picketed on the sidewalk adjacent to the Mohawk outlet. Neither the two picketers, nor those accompanying them, took part in the subsequent actions of the four striking employees who blocked the entrance to the outlet.

The Appellant commenced an action and applied for interim and interlocutory injunctive relief. Allbright J. granted an interim injunction. Barclay J. granted an interlocutory injunction. An appeal was allowed in part by a majority of the Court of Appeal.

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| Origin of the case: | Saskatchewan |
| File No.: | 27060 |
| Judgment of the Court of Appeal: | October 30, 1998 |
| Counsel: | Robert G. Richards Q.C. for the Appellant Madisun Browne for the Respondent |

27060 *Pepsi-Cola Canada Beverages (West) Ltd. c. Le Syndicat des détaillants, grossistes et magasins à rayons, section locale 558, et autres*

Droit du travail - Piquetage - Piquetage secondaire - Injonction - Piquetage secondaire en common law - La Cour d'appel de la Saskatchewan à la majorité a-t-elle commis une erreur en décidant que le piquetage secondaire n'était pas illégal en soi en common law?

L'appelante est Pepsi-Cola Canada Beverages (West) Ltd. Les intimés sont le Syndicat des détaillants, grossistes et magasins à rayons, section locale 558, ainsi que Garry Burkart et Linda Reiber. Le 15 mai 1997, pendant la nouvelle négociation d'une convention collective venue à expiration, un différend a surgi entre les parties, qui a mené à une grève et à un lock-out. Plusieurs employés en grève ont pris le contrôle de l'entrepôt, du bureau et de la cour de la société. Ils ont effectivement empêché la société d'utiliser les lieux. Le juge Allbright a accordé une injonction provisoire et ordonné aux employés en grève de quitter les locaux de la société, et de cesser les actes d'intrusion, d'intimidation et de nuisance, mais il les a laissés libre de faire un piquetage pacifique sur les lieux. L'appelante a repris le contrôle des lieux et a continué à exploiter son entreprise avec des gestionnaires et des membres de son personnel provenant d'autres villes.

Certains des employés en grève étaient aigris à cause de l'utilisation par l'appelante d'autres employés pour faire leur travail, particulièrement conduire les camions de livraison de la société; ils ont réagi en commettant certains actes de nature violente. Les efforts des employés en grève tendaient à gêner le mouvement des camions et la livraison des produits dans la ville et ses environs, à créer des difficultés aux gestionnaires et aux employés substitués de la société, et à dissuader les clients de la société d'acheter ses produits. Ils ont obstrué le passage des camions, saboté les camions et harcelé les conducteurs. À deux occasions, plusieurs employés ont obstrué l'entrée des camions, frappant sur les portes d'un des camions et menaçant de façon générale les conducteurs; ils ont bloqué un camion qui tentait de livrer des produits à un point de vente mohawk. Certains employés en grève ont abordé les propriétaires de deux dépanneurs Macs' pour leur demander de ne pas prendre livraison des produits Pepsi-Cola.

Trois employés ont fait du piquetage à l'extérieur de l'hôtel Delta Bessborough, où demeuraient quelques employés de la société venant de l'extérieur. Ils portaient des pancartes et marchaient sur le trottoir. Un ou deux jours plus tard, deux employés en grève, accompagnés par un ou deux autres, ont fait du piquetage sur le trottoir adjacent au point de vente Mohawk. Ni l'un ni l'autre des deux piqueteurs, ni ceux qui les accompagnaient n'ont participé aux actes subséquents des quatre employés en grève qui ont bloqué l'entrée du point de vente.

L'appelante a intenté une action et demandé une injonction provisoire et interlocutoire. Le juge Allbright a accordé une injonction provisoire. Le juge Barclay a accordé une injonction interlocutoire. La Cour d'appel à la majorité a accueilli en partie l'appel.

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| Origine: | Saskatchewan |
| N° du greffe: | 27060 |
| Arrêt de la Cour d'appel: | Le 30 octobre 1998 |
| Avocats: | Robert G. Richards, c.r., pour l'appelante Madisun Bowne pour les intimés |

27118 *Mary Danyluk v. Ainsworth Technologies Inc. et al*

Administrative law - Labour law - Issue estoppel - *Employment Standards Act*, R.S.O. 1990, E.14 - Whether the Court of Appeal erred in holding that the doctrine of issue estoppel applied to the decision of an employment standards officer despite the failure of the employment standards officer to observe the principles of natural justice in the decision making process?

In the fall of 1993, the Appellant became involved in a dispute with her employer, the Respondent, Ainsworth Technologies Inc., over unpaid commissions. The Appellant met with her superiors and sent various letters outlining her position. Her principal complaint concerned an alleged entitlement to commissions exceeding \$200,000 in respect of a project known as the CIBC Lan project.

The Appellant rejected a proposed settlement from the employer and on October 4, 1993 filed a complaint under the *Employment Standards Act*, R.S.O. 1990, c. E.14 (the "Act"). On October 5, the employer wrote to the Appellant rejecting her claim for commissions. The following week the Appellant attended for work. The employer took the position that she had resigned and the Appellant was escorted off the premises.

An employment standards officer, Ms. Caroline Burke, was assigned to investigate the Appellant's complaint. On March 21, 1994, the Appellant commenced an action in which she claimed damages for wrongful dismissal and also claimed unpaid wages and commissions. On June 1, 1994, solicitors for the employer wrote to Ms. Burke responding to the Appellant's claim. The employer's letter included a number of documents to substantiate its position. Ms. Burke did not provide this material to the Appellant nor did she ask the Appellant to respond to it.

On September 23, 1994, Ms. Burke ordered Ainsworth Technologies to pay the Appellant \$2,354.55 representing two weeks' pay in lieu of notice. Ms. Burke advised Ainsworth that she had rejected the Appellant's claim for unpaid commissions on the CIBC project. On October 3, 1994, Ms. Burke advised the Appellant, in writing, of the order made against the company for two weeks' termination pay but which rejected her claim for commission on the CIBC project. The letter explained that the Appellant had a right to apply to the Director of Employment Standards for a review of this decision. Ms. Burke repeated this advice in a subsequent telephone conversation with the Appellant. The Appellant did not apply to the director for a review of Ms. Burke's decision; instead, she pursued her claim in the civil courts.

In response to the Appellant's civil action claiming damages for wrongful dismissal and unpaid wages and commissions, the Respondents brought a motion to strike certain paragraphs of the Appellant's statement of claim on the basis that the parts of her claim relating to unpaid wages and commissions were frivolous, vexatious and an abuse of the court's process. The Respondents argued that the Appellant's claim for unpaid wages and commissions was barred by issue estoppel. On June 10, 1996, McCombs J. of the Ontario Court (General Division) granted the Respondents' motion and struck the relevant paragraphs of the Appellant's statement of claim. On December 2, 1998, the Appellant's appeal was dismissed by the Court of Appeal for Ontario.

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| Origin of the case: | Ontario |
| File No.: | 27118 |
| Judgment of the Court of Appeal: | December 2, 1998 |
| Counsel: | Howard Levitt for the Appellant John E. Brooks for the Respondent |

27118 *Mary Danyluk c. Ainsworth Technologies Inc. et al*

Droit administratif - Droit du travail - Autorité de chose jugée - *Loi sur les normes d'emploi*, L.R.O. 1990, E-14 - La Cour d'appel a-t-elle commis une erreur en concluant que la théorie de l'autorité de la chose jugée s'appliquait à la décision d'une agente des normes d'emploi malgré le défaut de celle-ci d'observer les principes de la justice naturelle dans le cadre du processus de prise de décision?

Au printemps 1993, l'appelante a eu un litige avec son employeur, l'intimée Ainsworth Technologies Inc., relativement à des commissions impayées. L'appelante a rencontré ses supérieurs et a envoyé diverses lettres exposant sa position. Sa plainte principale portait sur son prétendu droit à des commissions d'un montant excédant 200 000 \$ relativement à un projet connu comme le projet de réseau local d'entreprise de la CIBC.

L'appelante a rejeté une proposition de règlement de la part de l'employeur et a déposé une plainte le 4 octobre 1993 en vertu de la *Loi sur les normes d'emploi*, L.R.O. 1990, ch. E-14 (la Loi). Le 5 octobre, l'employeur a écrit à l'appelante pour lui indiquer qu'il refusait sa demande de commissions. L'appelante s'est présentée au travail la semaine suivante. L'employeur a considéré qu'elle avait démissionné et l'a expulsée des lieux.

Une agente des normes d'emploi, Caroline Burke, a été chargée de faire enquête sur la plainte de l'appelante. Le 21 mars 1994, l'appelante a intenté une action dans laquelle elle réclamait des dommages-intérêts pour congédiement injustifié ainsi que les commissions et les salaires impayés. Le 1^{er} juin 1994, les avocats de l'employeur ont écrit à M^{me} Burke pour répondre à la réclamation de l'appelante. Bon nombre de documents étaient joints à la lettre de l'employeur en vue d'étayer la position de ce dernier. M^{me} Burke n'a pas fourni ces documents à l'appelante ni ne lui a donné la possibilité d'y répondre.

Le 23 septembre 1994, M^{me} Burke a ordonné à Ainsworth Technologies de payer à l'appelante un montant de 2 354,55 \$ à titre de préavis de deux semaines. M^{me} Burke a informé Ainsworth qu'elle avait rejeté la réclamation pour commissions impayées faite par l'appelante au sujet du projet de la CIBC. Le 3 octobre 1994, M^{me} Burke a informé l'appelante par écrit de l'ordonnance enjoignant à la compagnie de lui verser une indemnité de cessation d'emploi équivalant au salaire de deux semaines et rejetant sa réclamation pour commissions impayées relativement au projet de la CIBC. La lettre expliquait que l'appelante avait le droit de présenter une demande de révision de la décision au directeur des normes d'emploi. M^{me} Burke a répété ce renseignement lors d'une conversation téléphonique avec l'appelante. L'appelante n'a présenté aucune demande de révision de la décision au directeur, préférant poursuivre l'action intentée devant les tribunaux civils.

En réponse à l'action en matière civile intentée par l'appelante en vue d'obtenir des dommages-intérêts pour congédiement injustifié ainsi que le versement des commissions et des salaires impayés, les intimés ont présenté une requête visant la radiation de certains paragraphes de la déclaration de l'appelante au motif que les parties de la demande de cette dernière relatives aux commissions et aux salaires impayés étaient frivoles et vexatoires et qu'elles constituaient un abus de procédure judiciaire. Les intimés ont prétendu que la demande de l'appelante visant l'obtention des commissions et des salaires impayés était irrecevable parce qu'elle était chose jugée. Le 10 juin 1996, le juge McCombs, de la Cour de l'Ontario (Division générale), a accordé la requête des intimés et a ordonné la radiation des paragraphes pertinents de la déclaration de l'appelante. Le 2 décembre 1998, l'appel interjeté par l'appelante a été rejeté par la Cour d'appel de l'Ontario.

Origine : Ontario
N° du greffe : 27118
Arrêt de la Cour d'appel : Le 2 décembre 1998
Avocats : Howard Levitt pour l'appelante
John E. Brooks pour les intimés

27295 *Her Majesty the Queen in right of Canada v. Bernard Miller*

Procedure - Civil Procedure - Declinatory exception - Lack of jurisdiction *ratione materiae* - Civil liability - Damages - International law - International organization - Crown immunity for acts *jure imperii* - Whether the Quebec Court of Appeal erred by deciding that the Superior Court had jurisdiction to hear the respondent's claim.

The respondent Miller, a British subject, worked as an interpreter for the International Civil Aviation Organization ("ICAO") at the Organization's headquarters in Montreal, in a building rented on behalf of ICAO by the government (the "Crown"). The building was owned by Monit International Inc. ("Monit"). The Crown, as the host country, and at the request of ICAO, rented the building from Monit pursuant to its international obligations as set out primarily in the *Headquarters Agreement between the International Civil Aviation Organization and the Government of Canada*, (1992) Can. T.S. No. 7, and the *Supplementary Agreement between the International Civil Aviation Organization and the Government of Canada*, (1980) Can. T.S. No. 18 (the "Agreements").

Miller brought an action in extra-contractual liability in the Superior Court of Quebec against Monit and the Crown seeking \$2,164,585.46 against them jointly and severally, and punitive damages of \$100,000 against the Crown and \$25,000 against Monit. He alleged that his health had deteriorated because of the poor air quality and inadequate ventilation inside the building. He further alleged that the Crown and Monit were aware of the poor air quality and had failed to warn him of the danger.

The Crown and Monit both filed a declinatory exception motion on the ground of lack of jurisdiction *ratione materiae* (art. 164 C.C.P.) and a motion to dismiss the action on the ground that it was prescribed (art. 165(4) C.C.P.). Both motions were dismissed by the Superior Court. The Crown further filed several additional motions concerning procedural matters. The only motions relevant here are the two declinatory exception motions on the ground of lack of jurisdiction *ratione materiae*.

By majority decision, the Quebec Court of Appeal held that the Quebec courts had jurisdiction to hear the case.

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| Origin: | Quebec |
| Court no.: | 27295 |
| Decision of the Court of Appeal: | March 16, 1999 |
| Counsel: | Marie Nichols, Q.C. and Claude Joyal for the appellant Leonard E. Seidman for the respondent |

27295 *Sa Majesté la Reine du Chef du Canada c. Bernard Miller*

Procédure - Procédure civile - Exception déclinatoire - Incompétence *ratione materiae* - Responsabilité civile - Dommages-intérêts - Droit international - Organisation internationale - Immunité de la Couronne pour les actes *jure imperii* - La Cour d'appel du Québec a-t-elle erré en décidant que la Cour supérieure avait compétence pour entendre la réclamation de l'intimé?

L'intimé Miller, sujet britannique, travaillait en tant qu'interprète pour l'Organisation de l'Aviation civile internationale (ci-après "OACI") au siège de l'Organisation situé à Montréal, dans un édifice loué pour le compte de l'OACI par le gouvernement (ci-après "la Couronne"). L'édifice appartenait à Monit International inc. (ci-après "Monit"). C'est en vertu de ses obligations internationales, prévues principalement dans l'*Accord de siège entre l'Organisation de l'Aviation civile internationale et le Gouvernement du Canada*, (1992) R.T. Can No.7, et l'*Accord supplémentaire entre l'Organisation de l'Aviation civile internationale et le Gouvernement du Canada*, (1980) R.T. Can. no 18 (ci-après "les Accords"), que la Couronne, en tant que pays hôte et à la demande de l'OACI, a obtenu la location de l'immeuble de Monit.

Miller a intenté une action en responsabilité extra-contractuelle devant la Cour supérieure du Québec contre Monit et la Couronne afin d'obtenir un montant de 2 164 585.46\$ solidairement, de même que 100 000\$ de dommages punitifs contre la Couronne et 25 000\$ contre Monit. Il a allégué que son état de santé s'était détérioré à cause de la mauvaise qualité de l'air et de l'insuffisance de la ventilation à l'intérieur de l'immeuble. Il a, de plus, allégué que la Couronne et Monit étaient au courant de la mauvaise qualité de l'air et auraient négligé de l'avertir du danger.

La Couronne et Monit ont toutes deux déposé une requête en exception déclinatoire pour cause d'incompétence *ratione materiae* (art. 164 C.p.c.) ainsi qu'une requête pour rejet de l'action au motif qu'elle est prescrite (art. 165.4 C.p.c.). Les deux requêtes ont été rejetées par la Cour supérieure. La Couronne a, de plus, déposé plusieurs autres requêtes concernant des questions de procédure. Seules les deux requêtes en exception déclinatoire pour cause d'incompétence *ratione materiae* sont pertinentes.

La Cour d'appel du Québec, à la majorité, a jugé que les tribunaux du Québec étaient compétents pour entendre le litige.

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| Origine: | Québec |
| N° du greffe: | 27295 |
| Arrêt de la Cour d'appel: | Le 16 mars 1999 |
| Avocats: | Me Marie Nichols, cr. Et Me Claude Joyal pour l'appelante Me Leonard E. Seidman pour l'intimé |

27307 *Monit International inc. v. Bernard Miller*

Procedure - Civil procedure - Declinatory exception - No jurisdiction *ratione materiae* - Civil liability - Damages - International law - International organization - Crown immunity for acts *jure imperii* - Whether national courts have jurisdiction to hear a claim by an employee of an international organization, working at the organization's head office, whose conditions of employment are under the exclusive jurisdiction of that organization, where the employee claims for damages occurring in the course of his employment - Whether the majority of the Court of Appeal erred in law by failing to recognize that the respondent's action was in essence a claim relating entirely to the respondent's conditions of employment with the international organization - Whether the majority of the Court of Appeal erred by failing to recognize that this subject-matter is outside the jurisdiction *ratione materiae* of the ordinary courts of the province of Quebec under the Headquarters Agreement, the *Foreign Missions and International Organizations Act* and the *ICAO Privileges and Immunities Order*, SOR/94-563 - Whether the majority of the Court of Appeal erred by failing to recognize the risk of double compensation and contradictory judgments and the risk that a decision by a national court might constitute interference in the internal affairs of an international organization.

The respondent Miller, a British subject, worked as an interpreter for the International Civil Aviation Organization ("ICAO") at the Organization's headquarters in Montreal, in a building rented on behalf of ICAO by the government (the "Crown"). The building was owned by Monit International Inc. ("Monit"). The Crown, as the host country, and at the request of ICAO, rented the building from Monit pursuant to its international obligations as set out in two international agreements (the "Agreements"). Miller brought an action in extra-contractual liability in the Superior Court of Quebec against Monit and the Crown. He alleged that his health had deteriorated because of the poor air quality and inadequate ventilation inside the building. He further alleged that the Crown and Monit were aware of the poor air quality and had failed to warn him of the danger. The Crown and Monit both filed a declinatory exception motion on the ground of lack of jurisdiction *ratione materiae* (art. 164 C.C.P.) and a motion to dismiss the action on the ground that it was prescribed (art. 165(4) C.C.P.). Both motions were dismissed by the Superior Court. The Crown further filed several additional motions concerning procedural matters. The only motions relevant here are the two declinatory exception motions on the ground of lack of jurisdiction *ratione materiae*. By majority decision, the Quebec Court of Appeal held that the Quebec courts had jurisdiction to hear the case.

Origin: Quebec

Court no.: 27307

Decision of the Court of Appeal: March 16, 1999

Counsel: Paul A. Melançon for the appellant
Leonard E. Seidman for the respondent

27307 *Monit International inc. c. Bernard Miller*

Procédure - Procédure civile - Exception déclinatoire - Incompétence *ratione materiae* - Responsabilité civile - Dommages-intérêts - Droit international - Organisation internationale - Immunité de la Couronne pour les actes *jure imperii* - Les tribunaux nationaux ont-ils juridiction pour entendre la réclamation d'un fonctionnaire d'une organisation internationale, travaillant au siège de cette organisation, dont les conditions d'emploi sont sous la juridiction exclusive de cette organisation lorsque cet employé réclame pour des dommages qui seraient survenus dans le cadre de son emploi? - La décision majoritaire de la Cour d'appel est-elle erronée en droit en ne reconnaissant pas que l'action de l'intimé est, dans son essence, une réclamation liée entièrement aux conditions de travail de l'intimé auprès d'une organisation internationale? - Le jugement majoritaire de la Cour d'appel est-il erroné en ne reconnaissant pas que cette matière est exclue de la juridiction *ratione materiae* des tribunaux de droit commun de la province de Québec en vertu de l'Accord de siège, de la *Loi sur les Missions Étrangères et les Organisations Internationales*, 1991, ch. 41 et du *Décret sur les privilèges de l'OACI*, DORS/94-563? - Le jugement majoritaire de la Cour d'appel est-il erroné en ne reconnaissant pas le risque de double indemnisation, de jugements contradictoires ainsi que le risque qu'une décision par un tribunal national pourrait constituer une ingérence dans les affaires internes d'une organisation internationale?

L'intimé Miller, sujet britannique, travaillait en tant qu'interprète pour l'Organisation de l'Aviation civile internationale (ci-après "OACI") au siège de l'Organisation situé à Montréal, dans un édifice loué pour le compte de l'OACI par le gouvernement (ci-après "la Couronne"). L'édifice appartenait à Monit International inc. (ci-après "Monit"). C'est en vertu de ses obligations internationales, prévues dans deux accords internationaux (ci-après "les Accords"), que la Couronne, en tant que pays hôte et à la demande de l'OACI, a obtenu la location de l'immeuble de Monit. Miller a intenté une action en responsabilité extra-contractuelle devant la Cour supérieure du Québec contre Monit et la Couronne. Il a allégué que son état de santé s'était détérioré à cause de la mauvaise qualité de l'air et de l'insuffisance de la ventilation à l'intérieur de l'immeuble. Il a, de plus, allégué que la Couronne et Monit étaient au courant de la mauvaise qualité de l'air et auraient négligé de l'avertir du danger. La Couronne et Monit ont toutes deux déposé une requête en exception déclinatoire pour cause d'incompétence *ratione materiae* (art. 164 C.p.c.) ainsi qu'une requête pour rejet de l'action au motif qu'elle est prescrite (art. 165.4 C.p.c.). Les deux requêtes ont été rejetées par la Cour supérieure. La Couronne a, de plus, déposé plusieurs autres requêtes concernant des questions de procédure. Seules les deux requêtes en exception déclinatoire pour cause d'incompétence *ratione materiae* sont pertinentes. La Cour d'appel du Québec, à la majorité, a jugé que les tribunaux du Québec étaient compétents pour entendre le litige.

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| Origine: | Québec |
| N° du greffe: | 27307 |
| Arrêt de la Cour d'appel: | Le 16 mars 1999 |
| Avocats: | Me Paul A. Melançon pour l'appelante Me Leonard E. Seidman pour l'intimé |

27152 *Le Barreau du Québec v. Simon Fortin et al.*

Legislation - Interpretation - Section 128.1(b) of the *Act respecting the Barreau*, R.S.Q. c. B-1 - Article 61 of the *Code of Civil Procedure*, R.S.Q. c. C-25 - Right to represent one's self in court - Pleadings drawn up by a third party who is not a lawyer - Whether, after ruling that the *Act respecting the Barreau* and section 128(1)(b) of that Act are matters of public order and that any agreement contrary to the provisions of that Act is null as a matter of absolute nullity, the Quebec Court of Appeal erred by concluding that the courts should nonetheless approve pleadings arising out of an agreement of that nature - Whether the Quebec Court of Appeal erred by ruling that the absolute nullity that prohibited the agreements under section 128(1)(b) of the *Act respecting the Barreau* is only "partial" in this instance - Whether the Quebec Court of Appeal erred by ruling that article 61 *C.C.P.* permitted the respondents to retain the services of a person who is not a member of the Barreau to "draw up or prepare" their pleadings "provided only that no mandate be given to that person to represent them in the courts", despite the clear words of section 128(1)(b) of the *Act respecting the Barreau* - Whether the Quebec Court of Appeal erred in interpreting section 128(1)(b), from the standpoint both of the protection of the public and of the administration of justice, by ruling that pleadings prepared in violation of that section must be dismissed by the courts.

The respondents, who were members of an association called Le Club juridique, filed motions for interlocutory injunctions and actions for permanent injunctions in the Superior Court against the *mis en cause* Jean-Guy Chrétien. They represented themselves in the courts. The respondents admitted that they had been aided and advised by Le Club juridique and its mandatary, Yvon Descôteaux, the founder of the association, a former lawyer who had been struck from the Barreau, in drawing up the pleadings in the Superior Court. On November 22, 1996, the Superior Court allowed the motion to dismiss filed by the *mis en cause* Jean-Guy Chrétien, because the pleadings had been drawn up on behalf of the respondents by a person who was not a member of the Barreau, contrary to section 128.1(b) of the *Act respecting the Barreau*, R.S.Q. c. B-1.

On June 6, 1997, the Barreau du Québec was given leave by the Court of Appeal to intervene in the case for the purpose of defending the interpretation of the *Act respecting the Barreau* adopted by the Superior Court judge. On December 17, 1998, the Court of Appeal reversed the judgment of the Superior Court and dismissed the motions to dismiss. It further ordered that all reference to Le Club juridique and its mandatary be struck from the pleadings.

Origin: Quebec

Court no.: 27152

Decision of the Court of Appeal: December 17, 1998

Counsel: François Folot for the appellant
Simon Fortin, Huguette Fortin and Lise Fortin for the respondents

27152 *Le Barreau du Québec c. Simon Fortin et al.*

Législation - Interprétation - Article 128.1. b) de la *Loi sur le Barreau*, L.R.Q. ch. B-1 - Article 61 du *Code de procédure civile*, L.R.Q. ch. C-25 - Droit de se représenter seul devant le tribunal - Actes de procédures rédigés par un tiers qui n'est pas avocat - Après avoir statué que la *Loi sur le Barreau* et son article 128(1)b) sont d'ordre public et que toute convention contraire à ces dispositions est nulle de nullité absolue, la Cour d'appel du Québec a-t-elle erré en concluant que les tribunaux devaient néanmoins sanctionner les procédures judiciaires issues d'une telle convention? - La Cour d'appel du Québec a-t-elle erré en statuant que la nullité absolue sanctionnant les contraventions à l'article 128(1)b) de la *Loi sur le Barreau* n'est que «partielle» en l'espèce? - La Cour d'appel du Québec a-t-elle erré en statuant que l'article 61 *C.p.c.* permettait aux intimés de faire appel à une personne non membre du Barreau pour «rédiger ou préparer» leurs procédures «pourvu seulement qu'aucun mandat ne soit donné à cette personne de les représenter devant les tribunaux», et ce, malgré les termes clairs de l'article 128(1)b) de la *Loi sur le Barreau*? - La Cour d'appel du Québec a-t-elle erré dans son appréciation de l'article 128(1)b), tant sous l'aspect de la protection du public que de l'administration de la justice en statuant que des procédures judiciaires préparées à l'encontre dudit article devaient être déclarées recevables par les tribunaux?

Les intimés, membres de l'association Le Club juridique, ont présenté des requêtes en injonction interlocutoire et des actions en injonction permanente devant la Cour supérieure et à l'encontre du mis en cause Jean-Guy Chrétien. Ils se représentaient seuls devant les tribunaux. Les intimés ont admis avoir été aidés et conseillés par Le Club juridique et son mandataire, M. Yvon Descôteaux, un ancien avocat radié du Barreau et fondateur de l'association, pour la rédaction des procédures devant la Cour supérieure. Le 22 novembre 1996, cette dernière a accueilli la requête en irrecevabilité déposée par le mis en cause Jean-Guy Chrétien, parce que les procédures avaient été rédigées pour le compte des intimés, par une personne qui n'était pas membre du Barreau, contrairement à l'article 128.1. b) de la *Loi sur le Barreau*, L.R.Q. ch. B-1.

Le 6 juin 1997, le Barreau du Québec a été autorisé par la Cour d'appel à intervenir au dossier dans le but de soutenir l'interprétation de la *Loi sur le Barreau* retenue par le juge de la Cour supérieure. La Cour d'appel a renversé, le 17 décembre 1998, le jugement de la Cour supérieure et a rejeté les requêtes en irrecevabilité. Elle a, de plus, ordonné que soit radiée des procédures, toute référence au Club juridique ainsi qu'à son mandataire.

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| Origine: | Québec |
| N° du greffe: | 27152 |
| Arrêt de la Cour d'appel: | Le 17 décembre 1998 |
| Avocats: | Me François Folot pour l'appelant Simon Fortin, Huguette Fortin et Lise Fortin pour les intimés |

DEADLINES: MOTIONS

DÉLAIS: REQUÊTES

BEFORE THE COURT:

Pursuant to Rule 23.1 of the *Rules of the Supreme Court of Canada*, the following deadlines must be met before a motion before the Court can be heard:

Motion day : November 6, 2000

Service : October 16, 2000
Filing : October 20, 2000
Respondent : October 27, 2000

Motion day : December 4, 2000

Service : November 10, 2000
Filing : November 17, 2000
Respondent : November 24, 2000

DEVANT LA COUR:

Conformément à l'article 23.1 des *Règles de la Cour suprême du Canada*, les délais suivants doivent être respectés pour qu'une requête soit entendue par la Cour :

Audience du : 6 novembre 2000

Signification : 16 octobre 2000
Dépôt : 20 octobre 2000
Intimé : 27 octobre 2000

Audience du : 4 décembre 2000

Signification : 10 novembre 2000
Dépôt : 17 novembre 2000
Intimé : 24 novembre 2000

DEADLINES: APPEALS

The Fall Session of the Supreme Court of Canada will commence October 2, 2000.

Pursuant to the *Supreme Court Act* and *Rules*, the following requirements for filing must be complied with before an appeal can be inscribed for hearing:

Appellant's record; appellant's factum; and appellant's book(s) of authorities must be filed within four months of the filing of the notice of appeal.

Respondent's record (if any); respondent's factum; and respondent's book(s) of authorities must be filed within eight weeks of the date of service of the appellant's factum.

Intervener's factum and intervener's book(s) of authorities, if any, must be filed within four weeks of the date of service of the respondent's factum, unless otherwise ordered.

Parties' condensed book, if required, must be filed on or before the day of hearing of the appeal.

Please consult the Notice to the Profession of October 1997 for further information.

The Registrar shall inscribe the appeal for hearing upon the filing of the respondent's factum or after the expiry of the time for filing the respondent's factum.

DÉLAIS: APPELS

La session d'automne de la Cour suprême du Canada commencera le 2 octobre 2000.

Conformément à la *Loi sur la Cour suprême* et aux *Règles*, il faut se conformer aux exigences suivantes avant qu'un appel puisse être inscrit pour audition:

Le dossier de l'appelant, son mémoire et son recueil de jurisprudence et de doctrine doivent être déposés dans les quatre mois de l'avis d'appel.

Le dossier de l'intimé (le cas échéant), son mémoire et son recueil de jurisprudence et de doctrine doivent être déposés dans les huit semaines suivant la signification de ceux de l'appelant.

Le mémoire de l'intervenant et son recueil de jurisprudence et de doctrine, le cas échéant, doivent être déposés dans les quatre semaines suivant la signification de ceux de l'intimé.

Le recueil condensé des parties, le cas échéant, doivent être déposés au plus tard le jour de l'audition de l'appel.

Veillez consulter l'avis aux avocats du mois d'octobre 1997 pour plus de renseignements.

Le registraire inscrit l'appel pour audition après le dépôt du mémoire de l'intimé ou à l'expiration du délai pour le dépôt du mémoire de l'intimé.

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 2000 -

| OCTOBER - OCTOBRE | | | | | | |
|-------------------|--------|--------|--------|--------|--------|--------|
| S D | M L | T M | W M | T J | F V | S S |
| 1 | M 2 | 3 | 4 | 5 | 6 | 7 |
| 8 | H 9 | 10 | 11 | 12 | 13 | 14 |
| 15 | 16 | 17 | 18 | 19 | 20 | 21 |
| 22 | 23 | 24 | 25 | 26 | 27 | 28 |
| 29 | 30 | 31 | | | | |

| NOVEMBER - NOVEMBRE | | | | | | |
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| DECEMBER - DECEMBRE | | | | | | |
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- 2001 -

| JANUARY - JANVIER | | | | | | |
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| FEBRUARY - FÉVRIER | | | | | | |
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| 11 | M 12 | 13 | 14 | 15 | 16 | 17 |
| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
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| MARCH - MARS | | | | | | |
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| S D | M L | T M | W M | T J | F V | S S |
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| 11 | M 12 | 13 | 14 | 15 | 16 | 17 |
| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| 25 | 26 | 27 | 28 | 29 | 30 | 31 |

| APRIL - AVRIL | | | | | | |
|---------------|---------|---------|--------|--------|---------|--------|
| S D | M L | T M | W M | T J | F V | S S |
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| 8 | 9 | 10 | 11 | 12 | H 13 | 14 |
| 15 | H 16 | M 17 | 18 | 19 | 20 | 21 |
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| MAY - MAI | | | | | | |
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| S D | M L | T M | W M | T J | F V | S S |
| | | 1 | 2 | 3 | R 4 | R 5 |
| R 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| 13 | M 14 | 15 | 16 | 17 | 18 | 19 |
| 20 | H 21 | 22 | 23 | 24 | 25 | 26 |
| 27 | 28 | 29 | 30 | 31 | | |

| JUNE - JUIN | | | | | | |
|-------------|---------|--------|--------|--------|--------|--------|
| S D | M L | T M | W M | T J | F V | S S |
| | | | | | 1 | 2 |
| 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| 10 | M 11 | 12 | 13 | 14 | 15 | 16 |
| 17 | 18 | 19 | 20 | 21 | 22 | 23 |
| 24 | 25 | 26 | 27 | 28 | 29 | 30 |

Sittings of the court:
Séances de la cour:

Motions:
Requêtes:

Holidays:
Jours fériés:



18 sitting weeks / semaines séances de la cour

78 sitting days / journées séances de la cour

9 motion and conference days / journées requêtes, conférences

3 holidays during sitting days / jours fériés durant les sessions