

**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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**APPLICATIONS FOR LEAVE TO
APPEAL FILED**

Michael Nikkanen

Alan D. Gold
Gold & Fuerst

v. (27645)

Her Majesty the Queen (Ont.)

Susan G. Ficek
A.G. for Ontario

FILING DATE 14.12.1999

Donald Russell

Dirk Derstine
Derstine, Penman and Associates

v. (27732)

Her Majesty the Queen (Ont.)

David Finley
A.G. for Ontario

FILING DATE 1.2.2000

A.-L.T.

Fred C. Lowther
MacLean Nicol

v. (27814)

W.B. (Que.)

Roland Yves Gagné
Magdelénat Tobolewski Gagné

FILING DATE 23.3.2000

Joseph William Hnatiw

Joseph William Hnatiw

v. (27601)

Hilda Scamstad et al. (Sask.)

Frank G. Quennell
Robertson Stromberg

FILING DATE 20.3.2000

**DEMANDES D'AUTORISATION
D'APPEL DÉPOSÉES**

E.T.H.

Marvin R. Bloos
Beresh Depoe Cunningham

v. (27709)

Her Majesty the Queen (Alta.)

Arnold Schlayer
A.G. for Alberta

FILING DATE 18.1.2000

David Masmarti

Pierre-Hugues Fortin
Kalman Samuels, Q.C., & Associés

c. (27712)

Me Bernard Cohen et al. (Qué.)

Murielle Lahaye
Commission des affaires sociales

DATE DE PRODUCTION 22.3.2000

Mansour Ahani

Barbara Jackman
Jackman, Waldman & Associates

v. (27792)

**The Minister of Citizenship & Immigration et al.
(F.C.A.)**

A.G. of Canada

FILING DATE 7.3.2000

Gérald Robitaille & Associés Ltée

Daniel Des Aulniers
Grondin, Poudrier, Bernier

c. (27799)

Sa Majesté la Reine du Canada (Qué.)

Robert Monette
DeBlois & Associés

DATE DE PRODUCTION 13.3.2000

Chief Councillor Mathew Hill, also known as Thathathk, on his own behalf and on behalf of all other members of the Kitkatla Band and Kitkatla Band

Jack Woodward
Woodward & Company

v. (27801)

The Minister of Small Business, Tourism and Culture et al. (B.C.)

Paul Pearlman, Q.C.
Fuller Pearlman & McNeil

FILING DATE 16.3.2000

Wilton Anthony Smith

David M. Tanovich
Pinkofsky Lockyer

v. (27802)

Her Majesty the Queen (Ont.)

Milan Rupic
A.G. for Ontario - Crown Law Office -
Criminal

FILING DATE 16.3.2000

Murray Ernest Greenwood, as administrator ad litem for Don Wilhelm

Peter Foley, Q.C.
Gauley & Co.

v. (27807)

Vernon Hickson et al. (Sask.)

Michael S. Hall
Hall & Reving

FILING DATE 20.3.2000

André Ledoux

André Blanchet

c. (27808)

Sa Majesté la Reine (C.A.F.)

Martin Gentile
Procureur général du Canada

DATE DE PRODUCTION 21.3.2000

Titus Nguigain

Titus Nguigain

c. (27809)

Ville de Québec et al. (Qué.)

Guy Bilodeau
Boutin, Roy & Assoc.

DATE DE PRODUCTION 22.3.2000

Franceschina Martelli

Franceschina Martelli

c. (27811)

La Commission des affaires sociales et al. (Qué.)

Luce Terrien
Lemieux, Chrétien, Lahaye & Corriveau

DATE DE PRODUCTION 22.3.2000

Ronald John Baas et al.

Michael R. Giroday

v. (27812)

Gail Lorraine Jellema (B.C.)

Robert C. Brun
Harris & Brun

FILING DATE 22.3.2000

Russell Kalashnikoff

David M. Rosenberg
Rosenberg & Rosenberg

v. (27803)

Her Majesty the Queen (B.C.)

Robert Frater
A.G. of Canada

FILING DATE 16.3.2000

Autobus Thomas Inc.

Daniel Bourgeois
Pothier Delisle, s.e.n.c.

c. (27804)

Sa Majesté la Reine (C.A.F.)

Marie-Andrée Legault
P.G. du Canada

DATE DE PRODUCTION 17.3.2000

Walter Antkiw

Jeanie DeMarco
Osler, Hoskin & Harcourt LLP

v. (27806)

Susan Verscheure et al. (Ont.)

Sheena J. MacAskill
McCarthy, Tétrault

FILING DATE 20.3.2000

Barry Robert Morrison

Frederick C. McElman
Stewart McKelvey Stirling Scales

v. (27813)

The Society of Lloyd's (N.B.)

Terrence L.S. Teed
Bingham Blair MacAulay Erhardt Teed

FILING DATE 23.3.2000

APPLICATIONS FOR LEAVE TO APPEAL
FILED

DEMANDES D'AUTORISATION D'APPEL
DÉPOSÉES

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

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

MARCH 27, 2000 / LE 27 MARS 2000

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

Ravi Devgan

v. (27567)

Her Majesty the Queen in Right of Ontario (Crim.)(Ont.)

NATURE OF THE CASE

Criminal law - Procedure - Appeals - Abandonment of appeal - Whether the Court of Appeal erred in law in failing to set aside the notice of abandonment of the Applicant's appeal against conviction when the notice was filed by the solicitor for the Applicant without the Applicant himself knowingly giving his consent to such filing - Whether the Court of Appeal erred in law by denying the Applicant the right to pursue his appeal against conviction when he had clear and cogent grounds for succeeding on his appeal - Whether the Court of Appeal erred in law in rendering its decision without considering that there would be no prejudice to permit the Applicant to argue his conviction appeal and that there would be a miscarriage of justice not to permit him to proceed with his appeal - Whether the Court of Appeal erred in law in failing to give effect to the overwhelming evidence before it that the Applicant would have pursued his appeal against conviction, had he known he could have?

PROCEDURAL HISTORY

January 26, 1996 Ontario Court of Justice (General Division) (German J.)	Applicant convicted of one count of fraud and one count of making a false statement
May 26, 1999 Court of Appeal for Ontario (Labrosse, Charron and Feldman JJ.A.)	Application for leave to appeal granted; appeal against sentence allowed
August 17, 1999 Court of Appeal for Ontario (Feldman J.A.)	Appeal against conviction dismissed as abandoned
February 7, 2000 Court of Appeal for Ontario (Carthy, Charron and Sharpe JJ.A.)	Motion for an order setting the Applicant's notice of abandonment and the previous order dated August 17, 1999 dismissed
October 29, 1999 Supreme Court of Canada	Application for leave to appeal sentence filed
February 28, 2000 Supreme Court of Canada	Application for leave to appeal conviction filed
March 23, 2000 Supreme Court of Canada (McLachlin C.J., Iacobucci and Major JJ.)	Application for leave to appeal sentence dismissed

Atlas Industries Ltd.

v. (27402)

**The Saskatchewan Labour Relations Board and The Sheet Metal Workers' International Association,
Local 296 (Sask.)**

NATURE OF THE CASE

Labour law - Labour relations – Construction industry under special regime of province-wide negotiations - Firm with small portion of work force involved in construction industry - Labour Relations Board including all firm's work force in the construction industry regime - Board's decision found to be in error on judicial review - Court of Appeal reversing decision of chambers judge - Whether Court of Appeal erred in allowing the appeal and reversing the decision of the learned Chambers Judge in the Court of Queen's Bench.

PROCEDURAL HISTORY

January 12, 1999 Court of Queen's Bench of Saskatchewan (Baynton J.)	Order: Respondents' order made under the provisions of <i>Trade Union Act</i> and <i>The Construction Industry Labour Relations Act</i> quashed
June 2, 1999 Court of Appeal for Saskatchewan (Cameron [<i>dissenting</i>], Gerwing, and Sherstobitoff JJ.A)	Appeal allowed
July 22, 1999 Supreme Court of Canada	Application for leave to appeal filed

Glaxo Group Limited and Glaxo Wellcome Inc.

v. (27457)

Novopharm Limited and The Minister of National Health and Welfare (F.C.A.)

NATURE OF THE CASE

Property law - Patents - *Patented Medicines (Notice of Compliance) Regulations*, SOR/93-133, s. 2 "medicine" - Whether the decision of the Court of Appeal is in conflict with *Hoffmann-La Roche Ltd. v. Canada (Minister of National Health and Welfare)* (1995), 67 C.P.R. (3d) 25 (F.C.A.), leave to appeal ref'd [1996] 3 S.C.R. xi - Whether the Court of Appeal correctly found that "medicine" did not include devices for delivering medicaments.

PROCEDURAL HISTORY

February 9, 1998 Federal Court of Canada, Trial Division (Tremblay-Lamer J.)	Applicants' motion for an order of prohibition dismissed; confirmation that the Minister is prohibited from issuing a Notice of Compliance until all appeals are exhausted or all appeal periods have expired
May 26, 1999 Federal Court of Appeal (Décary, Robertson, and Rothstein JJ.A.)	Appeals allowed on latter issue; cross-appeal dismissed on former issue
August 25, 1999 Supreme Court of Canada	Application for leave to appeal filed

Stanley Magda

v. (27420)

The St. Catharines Standard, a division of Southam Inc.

-and-

Burgoyne Holdings Inc. (Ont.)

NATURE OF THE CASE

Property law - Trusts and trustees - Misappropriation - Knowing assistance- Knowing receipt - Whether, in a case of knowing receipt by a stranger to a trust (which receives misappropriated funds), there must be evidence that the stranger to the trust actually benefited from those misappropriated funds - Whether there was any evidence of actual knowledge that the property and funds in issue were the product of or derived from misappropriation - Interpretation of *Air Canada v. M & L Travel Ltd.* [1993] 3 S.C.R. 787.

PROCEDURAL HISTORY

August 7, 1998 Ontario Court of Justice (General Division) (Quinn J.)	Applicant liable for funds fraudulently misappropriated from Respondents
May 13, 1999 Court of Appeal for Ontario (Doherty, Austin and Goudge JJ.A.)	Applicant's appeal dismissed
August 11, 1999 Supreme Court of Canada	Application for leave to appeal filed

**Alpha Laboratories Inc., Reese Nuclear Medical Laboratories Ltd.,
Bio-Test Laboratory Inc., and Metro Medical Laboratory Limited**

v. (27419)

Her Majesty The Queen in Right of Ontario (Ont.)

NATURE OF THE CASE

Statutes - Interpretation - Regulations - Validity - Retroactivity - Ontario Regulation 2/98 adopted under *Health Insurance Act*, R.S.O. 1990, c. H.6 - Whether Regulation valid - Whether a government paying for services under a regulatory funding formula can change that formula retroactively so as to confiscate payments made under a previous formula without express statutory authority to do so - Whether such a retroactive change can be made on the rationale that service providers should be deprived of earnings resulting from conduct which the government presumed to have occurred and perceived to be harmful to the public interest but which was never proven to be illegal.

PROCEDURAL HISTORY

March 2, 1999 Ontario Court (General Division)	Application for judicial review dismissed, interim order vacated
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Divisional Court
(Boland, Kozak and MacKenzie JJ.A.)

April 27, 1999
Ontario Court of Appeal
(Catzman, Osborne and Austin JJ.A.)

Motion for leave to appeal dismissed

August 9, 1999
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**

Son Mach

v. (27674)

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

NATURE OF THE CASE

Criminal Law - Trial - Jury Charge - Procedural Law - Severance - Flight and concealment - Reputation for dishonesty and manipulation - Whether a jury charge should have instructed that evidence of flight and concealment could not be used to show that the Applicant had the requisite intent for murder - Whether Court of Appeal erred in holding that post-offence conduct could be used as evidence of consciousness of guilt to determine level of intent - Whether a jury charge should have instructed that evidence of a reputation for dishonesty and manipulation should not be considered when assessing weight to be given to a statement to police - Whether Court of Appeal erred in holding that the trial judge did not err in failing to give jury a limiting instruction on the use of evidence led by co-accused that the applicant had a disposition for lying and manipulation - Whether Court of Appeal erred in holding that trial judge did not err in failing to grant severance.

PROCEDURAL HISTORY

November 27, 1993
Ontario Court of Justice
(Keenan J.)

Conviction: first degree murder (one count) and attempted murder (one count)

July 13, 1999
Court of Appeal for Ontario
(Brooke, Austin, Moldaver JJ.A.)

Appeal from conviction dismissed

December 23, 1999
Supreme Court of Canada

Applications for leave to appeal and for time extension filed

Spire Freezers Limited, Patrick Gouveia, John O'Neill, Edward Butcher, John Dobrei, Maroje Miloslavic

v. (27415)

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

NATURE OF THE CASE

Taxation - Assessment - Statutes - Interpretation - Whether the Federal Court of Appeal erred in finding that the Canadian parties had not entered into a partnership - Proper interpretation and application of *Continental Bank Leasing v. Canada*, [1998] 2 S.C.R. 298 - Section 96 of the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.).

PROCEDURAL HISTORY

November 27, 1997 Tax Court of Canada (Rip J.T.C.C.)	Appeals from the assessments made under the <i>Income Tax Act</i> dismissed
May 25, 1999 Federal Court of Appeal (Strayer, Linden, Robertson JJ.A.)	Appeal dismissed
August 5, 1999 Supreme Court of Canada	Application for leave to appeal filed

Theodore J. Tait

v. (27422)

Royal Insurance Company of Canada (N.S.)

NATURE OF THE CASE

Commercial law - Insurance - Claims - Defences - Applicant filing insurance claim for loss arising out of fire - Respondent insurer declining coverage, claiming that fire had been deliberately set - Trial judge dismissing Applicant's claim - Whether an individual has the right to have counsel present during his trial in civil proceedings - Whether there is a duty upon an insurer to conduct a thorough and credible investigation in assessing the merits of an insured's claim.

PROCEDURAL HISTORY

September 5, 1997 Supreme Court of Nova Scotia (MacAdam J.)	Applicant's action against Respondent dismissed
May 13, 1999 Nova Scotia Court of Appeal (Bateman, Hart and Flinn JJ.A.)	Appeal dismissed
August 12, 1999 Supreme Court of Canada	Application for leave to appeal filed

Bertrix Corporation et Tierra Del Sol Beach Resort Hotel C Por A

c. (27401)

**Valeurs mobilières Desjardins Inc. et autres (entités corporatives) et
Claude Béland et autres (administrateurs) (Qué.)**

NATURE DE LA CAUSE

Procédure civile - Cautionnement pour frais - Résidence à l'étranger - Situation financière - Détermination de la valeur du cautionnement pour frais par les juges - *Code de procédure civile*, L.R.Q., c. C-25, art. 65 (ci-après "*C.p.c.*").

HISTORIQUE PROCÉDURAL

Le 15 avril 1998
Cour supérieure du Québec
(Guthrie j.c.s.)

Requête en révision pour cautionnement pour frais
accueillie en partie

Le 25 mai 1999
Cour d'appel du Québec
(Gendreau, Baudouin et Chamberland jj.c.a.)

Appel rejeté

Le 16 juillet 1999
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Eustace Reeves

v. (27086)

**Reginald Arsenault, Mary Kyra Lynn Gauthier, Herbert Gauthier
and Home Insurance Company (P.E.I.)**

NATURE OF THE CASE

Torts - Damages - Soft tissue injury - Aggravation of pre-existing injury - Application of "crumbling skull" doctrine - Applicant diagnosed with myofascial pain syndrome - Trial judge reducing award of damages by 25% due to Applicant's pre-existing condition and further 10% for failure to mitigate his damages - Non-pecuniary damages of \$75,000 reduced to \$45,000 by Court of Appeal - Whether lower courts erred in application of principles in *Athey v. Leonati*, [1996] 3 S.C.R. 458.

PROCEDURAL HISTORY

October 23, 1996 Supreme Court of Prince Edward Island, Trial Division (DesRoches J.)	Damages of 245,713.52 awarded to Applicant
November 19, 1998 Supreme Court of Prince Edward Island, Appeal Division (Carruthers C.J., McQuaid, Mitchell JJ.A.)	Appeal dismissed; Cross-appeal allowed in part, reducing damages to 226,213.52
July 16, 1999 Supreme Court of Canada	Application for leave to appeal filed

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

Daniel Matthew Nette

v. (27669)

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

NATURE OF THE CASE

Criminal Law - Murder - Causation - Whether the causation test for second degree murder is lower than the standard articulated by *R. v. Harbottle*, [1993] 3 S.C.R. 306, for first degree murder - What is the correct formulation for the standard of causation for second degree murder?

PROCEDURAL HISTORY

May 6, 1997 Supreme Court of British Columbia (Wilkinson J.)	Conviction: Second degree murder Sentence: Life imprisonment, parole eligibility after 10 years
December 13, 1999 Court of Appeal of British Columbia (McEachern, Lambert and Braidwood JJ.A.)	Appeal against conviction dismissed
December 31, 1999 Supreme Court of Canada	Application for leave to appeal filed

James Matthew Carrie

v. (27684)

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

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Evidence - Right to fair trial - Sexual assault - Use of a firearm during commission of indictable offence - Corroboration - Whether Court of Appeal erred in its assessment of corroborative evidence and in accepting trial judge's finding as to credibility and use of weapons - Whether Court of Appeal erred by failing to recognize that the accused did not hear the proceedings of the trial because of his hearing impairment and as a result was not able to advise his counsel on the proceedings of the trial.

PROCEDURAL HISTORY

May 29, 1997 Supreme Court of British Columbia (Thackray J.)	Conviction: sexual assault (2 counts); firearm use in commission of an offence (1 count)
June 16, 1998 Court of Appeal of British Columbia (Esson, Huddart and Hall JJ.A.)	Appeal dismissed
January 4, 2000 Supreme Court of Canada	Application for leave to appeal filed

Emmanuel Feuerwerker

c. (27664)

Sa Majesté la Reine (Crim.)(Ont.)

NATURE DE LA CAUSE

Charte canadienne des droits et libertés - Droit criminel - Fraude - Procédure - Détermination de la peine - Opinion médicale sur la capacité mentale du demandeur - Plaidoyer de culpabilité - Capacité d'acquiescer ou de refuser de plaider coupable.

HISTORIQUE PROCÉDURAL

Le 15 octobre 1996 Cour de justice de l'Ontario (Roy j.)	Le demandeur a plaidé coupable de 21 chefs d'accusation de fraude et 6 chefs d'accusation de trafic d'influence; peine conditionnelle de 2 ans moins 1 jour
Le 8 décembre 1999 Cour d'appel de l'Ontario (Labrosse, Weiler et Charron jj.a.)	Appel rejeté
Le 17 décembre 1999 Cour suprême du Canada	Demande d'autorisation d'appel déposée

Janine Bailey

v. (27427)

Her Majesty The Queen in Right of Canada and The Public Service Commission (F.C.A.) (Ont.)

AND BETWEEN:

Elisabeth Lavoie and Jeanne To Thanh Hien

v. (27427)

Her Majesty The Queen in Right of Canada and The Public Service Commission (F.C.A.) (Ont.)

NATURE OF THE CASE

Canadian *Charter* - Civil - Civil rights - Equality - Whether s. 15(1) of the *Charter* protects against discrimination between citizens and non-citizens in referral to open competitions for positions in the federal public service - Whether the Federal Court of Appeal erred in finding that it did not - *Public Service Employment Act*, R.S.C. 1985, c. P-33, s. 16(4)(c).

PROCEDURAL HISTORY

April 21, 1995 Federal Court of Canada, Trial Division (Wetston J.)	Applicants' actions dismissed
May 19, 1999 Federal Court of Appeal (Marceau, Desjardins and Linden [dissenting] JJ.A.)	Appeals dismissed
August 12, 1999 Supreme Court of Canada	Application for leave to appeal filed by Applicant Bailey
August 18, 1999 Supreme Court of Canada	Application for leave to appeal filed by Applicants Lavoie and To Thanh Hien

Conrad P. Godbout et Yvette Pilié

c. (27428)

La Municipalité de la paroisse de Saint-Pie (Qué.)

NATURE DE LA CAUSE

Droit Municipal - Environnement - Nuisances - Procédure civile - Requête pour permission d'appel hors délai - Le règlement sur les nuisances de l'intimée est-elle *ultra vires* - Les droits des demandeurs garantis par la *Charte des droits et libertés de la personne*, L.R.Q., ch. C-12, ont-ils été violés - Le juge de première instance avait-elle l'obligation d'aviser les demandeurs de la nécessité d'un avis sous l'art. 95 du *Code de procédure civile*, L.R.Q., ch. C-25 - La Cour d'appel a-t-elle erré en rejetant la requête des demandeurs pour permission d'appeler hors délai en vertu de l'art. 505 du *Code de procédure civile* - L'intimée a-t-elle violé la *Loi sur la protection des arbres*, L.R.Q., ch. P-37?

HISTORIQUE PROCÉDURAL

Le 2 février 1999
Cour supérieure du Québec
(Julien j.c.s.)

Requête de l'intimée pour obtenir une ordonnance de nettoyer des lieux pour les rendre conformes à la réglementation municipale et à la loi accueillie

Le 16 mars 1999
Cour d'appel du Québec
(Proulx j.c.a.)

Requête des demandeurs pour permission d'appeler rejetée

Le 26 avril 1999
Cour d'appel du Québec
(Dussault, Deschamps et Robert jj.c.a.)

Requête des demandeurs pour permission d'appeler hors délai rejetée

Le 12 août 1999
Cour suprême du Canada

Demande d'autorisation d'appel déposée

APRIL 3, 2000 / LE 3 AVRIL 2000

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

Kin Yung Ku

v. (27466)

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

NATURE OF THE CASE

Canadian *Charter* - Criminal - Criminal law - Pre-trial procedure - Judicial interim release - Whether the Supreme Court of British Columbia erred in upholding the order denying the Applicant judicial interim release pursuant to Part XVI of the *Criminal Code* of Canada - Whether s. 515(10)(c) of the *Criminal Code* is inconsistent with ss. 7, 9, 11(d) and 11(e) of the *Charter*.

PROCEDURAL HISTORY

January 8, 1999
Provincial Court of British Columbia
(Stone J.)

Detention order granted

January 21, 1999
Supreme Court of British Columbia
(Sigurdson J.)

Applicant's application to be released from custody dismissed, detention order upheld

June 9, 1999
Supreme Court of British Columbia
(Ralph J.)

Application for review of detention order dismissed

September 7, 1999
Supreme Court of Canada

Application for leave to appeal filed

Lynne Palmer

v. (27574)

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

NATURE OF THE CASE

Criminal law - Practising medicine without licence - Whether the Saskatchewan Court of Appeal erred in applying ss. 21(1), (2), 465(1)(b), 137, 134, 136, 139, 131, 132, 140, 786(2) and 361 of the *Criminal Code* - Whether the Court of Appeal did not recognize there was no defence submitted by the accused's lawyer.

PROCEDURAL HISTORY

February 19, 1998 Provincial Court of Saskatchewan (Bekolay J.)	Conviction: four counts of practising medicine without a licence contrary to s. 80 of the <i>Medical Profession Act</i> , 1981, S.S. 1988-89, c. 43 Sentence: Fine of \$1,500.00 on each charge
January 26, 1999 Court of Queen's Bench of Saskatchewan (Smith J.)	Appeal from conviction and sentence dismissed
May 10, 1999 Court of Appeal for Saskatchewan (Tallis, Vancise and Sherstobitoff JJ.A.)	Leave to appeal from conviction denied
October 4, 1999 Supreme Court of Canada	Application for extension of time to file application for leave to appeal filed
November 5, 1999 Supreme Court of Canada	Application for leave to appeal filed

Glengarry Bingo Association

v. (27166)

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

NATURE OF THE CASE

Taxation - Agency - Goods and services tax - Applicant bingo association conducting bingo games for its members which are registered and non-registered charities - Whether, pursuant to section 178 of the *Excise Tax Act*, R.S.C., 1985, c. E-15, as amended by S.C. 1990, c. 45, the Applicant is exempt from collecting and remitting GST for services and equipment supplied to its members.

PROCEDURAL HISTORY

July 10, 1995 Tax Court of Canada (Beaubier J.T.C.C.)	Appeal from assessment allowed and referred back to Minister of National Revenue for reconsideration and reassessment
March 5, 1999	Appeal allowed; assessment referred back to the Minister

Federal Court of Appeal
(Isaac C.J., Linden and Sexton JJ.A.)

for reconsideration and reassessment

May 3, 1999
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**

**Rosario Bernier, Ferme Mailloux et Fils, Ferme Bessette & Frères Waterville inc.,
Le Regroupement provincial pour le maintien des droits des producteurs de lait inc.**

c. (27416)

**Fédération des producteurs de lait du Québec et
La Régie des marchés agricoles et alimentaires du Québec (Qué.)**

NATURE DE LA CAUSE

Droit administratif - Contrôle judiciaire - Législation - Textes réglementaires - Interprétation - La Régie des marchés agricoles et alimentaires du Québec exerçait-elle des fonctions quasi judiciaires lorsqu'elle a rendu ses décisions modifiant et approuvant les règlements soumis par la Fédération des producteurs de lait du Québec? - L'apparence de partialité causée par les actes du président de la Régie justifiait-elle l'annulation des décisions rendues par la Régie? - La Régie a-t-elle commis des erreurs manifestement déraisonnables en décidant que les règlements ne portaient pas atteinte aux droits acquis des demandeurs et en confirmant la validité du référendum tenu pour l'approbation des règlements?

HISTORIQUE PROCÉDURAL

Le 12 décembre 1996
Cour supérieure du Québec
(Julien j.c.s.)

Action directe en nullité des demandeurs contre la
décision 5672 rendue par la Régie intimée accueillie

Le 7 mai 1999
Cour d'appel du Québec
(Baudouin, Proulx et Deschamps jj.c.a.)

Pourvois des intimées accueillis

Le 6 août 1999
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Fraternité des préposés à l'entretien des voies

c. (27434)

Canadien Pacifique Limitée

-et-

**Michel Picher, arbitre pour le Bureau
d'arbitrage des chemins de fer du Canada (Qué.)**

NATURE DE LA CAUSE

Droit du travail - Convention collective - Interprétation - Contrôle judiciaire - Décision d'un arbitre nommé en vertu d'une convention collective - Erreur manifestement déraisonnable - Plainte pour traitement injuste - Clause ouverte.

HISTORIQUE PROCÉDURAL

Le 22 janvier 1993 Cour supérieure du Québec (Tessier j.c.q.)	Requête en évocation de la demanderesse accueillie
Le 19 mai 1999 Cour d'appel du Québec (Dussault, Deschamps et Robert jj.c.a.)	Jugement de la Cour supérieure infirmé; requête en évocation rejetée
Le 16 août 1999 Cour suprême du Canada	Demande d'autorisation d'appel déposée

Union québécoise pour la conservation de la nature

c. (27421)

Jacques Brassard en sa qualité de ministre des Transports

-et-

**Paul Bégin en sa qualité de ministre de l'Environnement et de la Faune,
Procureur général du Québec et Bernard Gauthier (Qué.)**

NATURE DE LA CAUSE

Droit de l'environnement - Droit administratif - Admission d'une nouvelle preuve - Études de l'impact sur l'environnement d'un projet de construction d'une voie routière - Pouvoir discrétionnaire du Ministre du Transport.

HISTORIQUE PROCÉDURAL

Le 11 novembre 1998 Cour supérieure du Québec (Boisvert j.c.s.)	Requête en <i>mandamus</i> et demande d'ordonnance de sursis rejetées
Le 8 janvier 1999 Cour d'appel du Québec (Mailhot, Rousseau-Houle et Forget j.c.a.)	Requête pour demander une ordonnance de sursis rejetée
Le 12 mai 1999 Cour d'appel du Québec (Proulx, Pidgeon et Letarte j.c.a.)	Appel rejeté
Le 11 août 1999 Cour suprême du Canada	Demande d'autorisation d'appel déposée

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

J.H.

v. (27670)

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

NATURE OF THE CASE

Criminal Law - Young Offenders - Right to Counsel - *Young Offenders Act* permits an order to appoint counsel if a young person is unable to obtain counsel - Accused before Youth Court was denied legal aid and applied for an order appointing counsel claiming she was unable to obtain counsel - Whether Youth Court is required to conduct a hearing into the youth's ability to obtain counsel before granting order - Whether hearing should consider a young person's ability to access the financial resources of his or her parents - Meaning of "unable to" in s. 11(4)(b) of the *Young Offenders Act*, R.S.C. 1985, c. Y-1.

PROCEDURAL HISTORY

August 24, 1998
Ontario Court (Provincial Division)
(King J.)

Order appointing counsel granted

October 21, 1999
Court of Appeal for Ontario
(Finlayson, Weiler and Moldaver JJ.A.)

Appeal allowed

December 20, 1999
Supreme Court of Canada

Application for leave to appeal filed

Marcia Robertson

v. (27514)

The Ontario Human Rights Commission and Maple Leaf Foods Inc. (Ont.)

NATURE OF THE CASE

Procedural law - Extension of time to apply for leave to appeal - Whether the Court of Appeal correctly denied the extension of time.

PROCEDURAL HISTORY

May 11, 1998 Ontario Court of Justice (General Division) (Hart, Koo and Karam JJ.)	Application for judicial review dismissed
June 24, 1999 Court of Appeal for Ontario (Laskin J.A.)	Appeal seeking an order for an extension of time dismissed
September 28, 1999 Supreme Court of Canada	Application for leave to appeal filed

Crestwood Lake Limited, Percy St. Pierre and Margaret St. Pierre

v. (27462)

**Robert Pizzey, Marc E. Lefebvre and Robert Owen Pizzey, Executors of the Estate of Mabel Pizzey, deceased,
Glenn Pizzey and Cameron Pizzey (Ont.)**

NATURE OF THE CASE

Property law - Real property - Breach of contract - Damages - Purchaser of trailer park obtaining fewer potential sites than he believed he was purchasing - Vendor ordered to pay purchaser damages for breach of contract - Court ordering that damages to which purchaser was entitled might be set off against balance overdue under mortgage back - Correct procedure for calculating amounts owing under mortgage back - Whether Court of Appeal should have corrected arithmetic error alleged by purchaser.

PROCEDURAL HISTORY

March 13, 1998 Ontario Court (General Division) (Kent J.)	Respondents ordered to pay Applicants damages for breach of contract
June 14, 1999 Court of Appeal for Ontario (Krever, Abella and Rosenberg JJ.A.)	Appeal and cross-appeal dismissed
August 31, 1999 Supreme Court of Canada	Application for leave to appeal filed

Gunnar Kjelstrup Madsen

v. (27473)

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

NATURE OF THE CASE

Taxation - Assessment - Income tax reduction scheme - Whether a court may deny a taxpayer the right to claim an expense deduction in computing his income (pursuant to s. 18(1)(a) of Act) on the ground that the taxpayer did not incur the expense for the purpose of earning income in circumstances where the earning of income is an absolute certainty and has resulted (or will result) directly from the expense being paid - Whether the trial judge erred when he concluded that the advance royalties and licence fees were not paid by the Applicant for the purpose of earning income within the meaning of s. 18(1)(a) of the *Income Tax Act*.

PROCEDURAL HISTORY

May 2, 1997 Tax Court of Canada (Bonner T.C.J.)	Applicant's appeal from assessment dismissed
June 10, 1999 Federal Court of Appeal (Marceau, Noël, Sexton JJ.A.)	Appeal dismissed
September 9, 1999 Supreme Court of Canada	Application for leave to appeal filed

MARCH 30, 2000 / LE 30 MARS 2000

27582 **HARRY CAVAN v. HER MAJESTY THE QUEEN** (Ont.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Canadian Charter - Criminal - Evidence - Disclosure - Crown referred to fact of Applicants' access to disclosure during cross-examination of accused and in closing address to jury - Whether the Crown can urge a jury to find that an accused has tailored his evidence to conform to the disclosure provided - Whether the drawing of such an adverse inference violates s. 7 of the *Charter* by undermining and creating a trap of the constitutional right to disclosure.

PROCEDURAL HISTORY

February 13, 1997
Ontario Court of Justice (General Division) (Hoilett J.)

Applicants convicted of trafficking in a narcotic

November 5, 1999
Court of Appeal for Ontario
(Osborne A.C.J.O., Abella J.A., MacPherson J.A. [*ad hoc*])

Appeals from convictions and sentences dismissed

December 14, 1999
Supreme Court of Canada

Applications for leave to appeal filed

27587 **DOUGLAS SCOTT v. HER MAJESTY THE QUEEN** (Ont.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Canadian Charter - Criminal - Evidence - Disclosure - Crown referred to fact of Applicants' access to disclosure during cross-examination of accused and in closing address to jury - Whether the Crown can urge a jury to find that an accused has tailored his evidence to conform to the disclosure provided - Whether the drawing of such an adverse inference violates s. 7 of the *Charter* by undermining and creating a trap of the constitutional right to disclosure.

PROCEDURAL HISTORY

February 13, 1997 Ontario Court of Justice (General Division) (Hoilett J.)	Applicants convicted of trafficking in a narcotic
November 5, 1999 Court of Appeal for Ontario (Osborne A.C.J.O., Abella J.A., MacPherson J.A. [<i>ad hoc</i>])	Appeals from convictions and sentences dismissed
December 14, 1999 Supreme Court of Canada	Applications for leave to appeal filed

27195 **JOHN MARTIN CRAWFORD v. HER MAJESTY THE QUEEN** (Sask.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal Law - Procedural Law - Appeals - Competence of counsel - Standards for assessing competence of counsel as a grounds for appeal - Whether appellate review guidelines of the right to a fair trial and effective assistance of counsel under ss. 7 and 11(d) of the *Charter* are dramatically divergent from province to province.

PROCEDURAL HISTORY

May 30, 1996 Court of Queen's Bench of Saskatchewan (Wright J.)	Convictions: first degree murder and two counts of second degree murder Sentence: Life imprisonment, parole in 25 years on each count
January 21, 1999 Court of Appeal for Saskatchewan (Tallis, Gerwing and Lane JJ.A.)	Appeal from convictions and sentence dismissed
November 9, 1999 Supreme Court of Canada	Application for leave to appeal from convictions filed

26669 **DARRELL BRERTTON v. HER MAJESTY THE QUEEN - AND BETWEEN - CAMERON CARDINAL v. HER MAJESTY THE QUEEN - AND BETWEEN - SAMUEL LORNE BULL JR. v. HER MAJESTY THE QUEEN** (Crim.)(Alta.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal Law - Treaty rights to hunt under Treaty No. 6 - Whether the courts below erred with respect to the visible, incompatible use of land test set out in *R. v. Badger*, [1996] 1 S.C.R. 771 - Whether the test for "right of access" in *R. v. Sutherland*, [1980] 2 S.C.R. 451 applied.

PROCEDURAL HISTORY

June 18, 1997 Provincial Court of Alberta (Norheim J.)	Darrell Brertton convicted of unlawful hunting; Each Applicant convicted of unlawful possession of wildlife and unlawful trespass
March 11, 1998 Court of Queen's Bench of Alberta (Moreau J.)	Summary conviction appeals allowed in part: Darrell Brertton's conviction of unlawful possession of wildlife quashed
October 14, 1999 Court of Appeal for Alberta (Côté, Picard, Sulatycky JJ.A.)	Appeals dismissed
December 10, 1999 Supreme Court of Canada	Application for leave to appeal filed

27358 **DENNIS GORDON v. WINNIPEG CANOE CLUB, LESLEY BAIZLEY, GERALD STEVENS, JANE DELEEUEW, AND SHERMAN HARMON AND WILLIAM J.C. STEWART** (Man.)

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

Property law - Trusts and trustees - Constructive trust - Insurance proceeds - Canoe Club depositing insurance proceeds from theft of Applicant's tractor in its general account - Deposit reducing amount owing under Club's line of credit - Club found liable for breach of a constructive trust - Whether Club's general manager or officers liable for Club's breach of trust - Circumstances, if any, in which liability ought to be imposed on a stranger to a trust for breach of a constructive trust.

PROCEDURAL HISTORY

February 17, 1997 Court of Queen's Bench of Manitoba (Schulman J.)	Winnipeg Canoe Club and Respondent Stewart found liable for damages for breach of a constructive trust
April 14, 1999 Court of Appeal of Manitoba (Scott C.J.M., Huband and Kroft JJ.A.)	Respondent Stewart's appeal allowed; Applicant's appeal as against other personal Respondents dismissed
June 14, 1999	Application for leave to appeal filed

Supreme Court of Canada

27389 **ELIZABETH MARION STONE AS REPRESENTATIVE OF A CLASS OF PERSONS v. THE WELLINGTON COUNTY BOARD OF EDUCATION AND HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO** (Ont.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The motion for extension of time is dismissed. The application for leave to appeal is dismissed with costs.

La demande de prorogation de délai est rejetée. La demande d'autorisation d'appel est rejetée avec dépens.

NATURE OF THE CASE

Procedural law - Actions - Civil Procedure - Pre-trial procedure - Class actions - Whether the Court of Appeal erred in applying the Ontario *Rules of Civil Procedure* to the proposed class proceeding herein as if it were "any action", without due regard to the essential representative nature of class proceedings - Whether the Court of Appeal erred in determining the appropriateness of the proposed representative plaintiff in isolation from, and prior to, the plaintiff's motion for certification - Whether the Court of Appeal erred in determining that the proposed representative could not be said to be a member of the proposed class on the basis that she was barred from recovering against but two of several defendants - Whether the Court of Appeal erred in disposing of the action brought on behalf of a class of persons on the basis of a legal defence particular to the individual commencing the proposed class proceeding and certain of the defendants only.

PROCEDURAL HISTORY

June 29, 1998 Ontario Court of Justice (General Division) (McKenzie J.)	Applicant's claim as an individual declared to be statute barred on basis of limitation period; action against both Respondents dismissed
March 10, 1999 Court of Appeal for Ontario (McMurthy, Weiler and Goudge JJ.A)	Appeal dismissed
July 15, 1999 Supreme Court of Canada	Application for leave to appeal filed

27351 **VIGI SANTÉ LTÉE, HÔPITAL STE-MONIQUE INC., CENTRE LE CARDINAL INC., GROUPE CHAMPLAIN INC. - c. - PROCUREUR GÉNÉRAL DU QUÉBEC - et - CURATEUR PUBLIC DU QUÉBEC** (Qué.)

CORAM: Les juges L'Heureux-Dubé, Bastarache et LeBel.

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

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Droit administratif - Centres d'hébergement et de soins de longues durées (C.H.S.L.D.) - Services de santé et services sociaux - Lavage et entretien du linge personnel des usagers à titre gratuit - Convention de financement - Jugement déclaratoire - Est-ce qu'en vertu de la convention de financement signée avec le ministre en 1994, les établissements privés conventionnés ont convenu de fournir à titre gratuit le service de lavage et d'entretien normal de la lingerie personnelle et des vêtements personnels des usagers?

HISTORIQUE PROCÉDURAL

Le 20 mars 1997
Cour supérieure du Québec
(Tellier j.c.s.)

Requête pour jugement déclaratoire visant à faire déclarer les demandresses non tenues de fournir gratuitement des services de lavage et d'entretien de vêtements des usagers accueillie

Le 15 avril 1999
Cour d'appel du Québec
(Brossard, Chamberland et Forget jj.c.a.)

Appel accueilli; jugement de la Cour supérieure cassé; requête pour jugement déclaratoire rejetée

Le 11 juin 1999
Cour suprême du Canada

Demande d'autorisation d'appel déposée

27642 **BYRON LESLIE DERKSEN and KERRY BEGRAND-FAST - v. - HER MAJESTY THE QUEEN** (Crim.)(Sask.)

CORAM: L'Heureux-Dubé, Bastarache and LeBel JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal Law - Pretrial procedure - Indictments - Preliminary inquiries - Following a preliminary inquiry, crown counsel withdrew a joint indictment against two accused and replaced it with two separate indictments - Whether Crown counsel may unilaterally change an indictment after a pretrial conference has been held pursuant to s. 625.1(2) of the *Criminal Code*, R.S.C. 1985, c. C-46, as amended?

PROCEDURAL HISTORY

April 5, 1999
Court of Queen's Bench of Saskatchewan
(Milliken J.)

Stay of proceedings granted

October 13, 1999
Court of Appeal for Saskatchewan
(Gerwing, Sherstobitoff and Jackson JJ.A.)

Appeal allowed

December 13, 1999
Supreme Court of Canada

Application for leave to appeal filed

27589 **ANTONIO FLAMAND - c. - SA MAJESTÉ LA REINE** (Qué.)

CORAM: Les juges L'Heureux-Dubé, Bastarache et LeBel.

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

NATURE DE LA CAUSE

Droit criminel - Abus de confiance - La Cour d'appel a-t-elle erré en droit en refusant de statuer que la «voix au chapitre» était un élément essentiel du crime d'abus de confiance prévu à l'article 122 *C.cr.*? - La Cour d'appel a-t-elle erré en droit en concluant que le verdict de culpabilité prononcé contre le demandeur par le juge du procès n'était pas déraisonnable au sens du sous-al. 686 (1)a(i) *C.cr.*?

HISTORIQUE PROCÉDURAL

Le 28 octobre, 1994 Demandeur déclaré coupable d'abus de confiance
Cour du Québec
(Lavergne, j.c.q.)

Le 13 septembre 1999 Appel rejeté
Cour d'appel du Québec
(Gendreau, Nuss, et Letarte [*ad hoc*] jj.c.a)

Le 12 novembre 1999 Demande d'autorisation d'appel déposée
Cour suprême du Canada

27537 **CADILLAC FAIRVIEW CORPORATION LIMITED - v. - SASKATCHEWAN HUMAN RIGHTS COMMISSION** (Sask.)

CORAM: L'Heureux-Dubé, Bastarache and LeBel JJ.

The motion for extension of time is granted and the application for leave to appeal is dismissed.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Labour law - Statutes - Interpretation - Collective agreement - Arbitrator given power to determine issues pursuant to collective agreement by terms of that agreement and *The Trade Union Act*, R.S.S. 1978, c. T-17 - Board of Inquiry given power to determine issues pursuant to *The Saskatchewan Human Rights Code*, S.S. 1979, c. S-24.1 - Whether the jurisdiction of a statutory administrative tribunal is ousted by the mandatory arbitration procedures of trade union legislation - Whether the Court of Appeal for Saskatchewan erred in allowing the appeal and in remitting the matter back to the Board of Inquiry.

PROCEDURAL HISTORY

January 7, 1998 Applicant's application for prohibition granted
Court of Queen's Bench for Saskatchewan

(Grotsky J.)

April 15, 1999
Court of Appeal for Saskatchewan
(Vancise, Wakeling and Jackson JJ.A.)

Appeal allowed

October 7, 1999
Supreme Court of Canada

Application for leave to appeal and extension of time filed

27355 **DOMINION BRIDGE INC. - v. - HER MAJESTY THE QUEEN, SASKATCHEWAN AS REPRESENTED BY THE DIRECTOR OF LABOUR STANDARDS BRANCH, JAMES ROUTLEDGE and DAREN KELLER** (Sask.)

CORAM: L'Heureux-Dubé, Bastarache and LeBel JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Labour law - Statutes - Interpretation - Collective agreement - Arbitrator given power to determine issues pursuant to collective agreement by terms of that agreement and *Trade Union Act*, R.S.S. 1978, c. T-17 - Adjudicator given power to determine issues pursuant to *The Labour Standards Act*, R.S.S. 1978, c. L-1 - Whether *St Anne-Nackawic Pulp and Paper C. v. Canadian Paper Workers Union, Local 219*, [1986] 1 S.C.R. 704 and *Weber v. Ontario Hydro*, [1995] 2 S.C.R. 967, apply to determine which body has jurisdiction - Whether the Court of Appeal erred in deciding that adjudicators should determine if the benefits offered to workers pursuant to their collective agreements are consistent with *The Labour Standards Act*.

PROCEDURAL HISTORY

November 13, 1997
Court of Queen's Bench of Saskatchewan
(Gerein J.)

Appeal from adjudicator's decision that he had jurisdiction under *The Labour Standards Act* allowed

April 15, 1999
Court of Appeal for Saskatchewan
(Vancise, Wakeling, Jackson JJ.A.)

Appeal allowed; matter remitted to adjudicator for determination

June 14, 1999
Supreme Court of Canada

Application for leave to appeal filed

27369 **COMMISSION SCOLAIRE D'IBERVILLE - c. - SYNDICAT DE L'ENSEIGNEMENT DU HAUT-RICHELIEU - et - Me LISE TOUSIGNANT, Me GILLES POULIOT, M. JEAN-PAUL BERNARD, PROCUREUR GÉNÉRAL DU QUÉBEC** (Qué.)

CORAM: Les juges L'Heureux-Dubé, Bastarache et LeBel.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel est rejetée avec dépens.

The motion for extension of time is granted and the application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Droit du travail - Droit administratif - Arbitrage - Convention collective - Contrôle judiciaire - Compétence - Un arbitre a-t-il la juridiction d'interpréter une loi qui ne confère aucun droit additionnel alors qu'il est d'avis que le grief dont il est saisi devrait être rejeté en regard des dispositions de la convention collective? - La Cour d'appel a-t-elle erré en droit et dénaturé l'intention du législateur en considérant conforme à la loi la décision de l'arbitre de permettre le rachat d'années de service antérieur par l'utilisation des congés-maladie non monnayables? - Art. 17 de la *Loi sur le régime de retraite de certains enseignants*, L.R.Q., ch. R-9.1.

HISTORIQUE PROCÉDURAL

Le 12 novembre 1993
Cour supérieure du Québec
(Mayrand j.c.s.)

Requête en révision judiciaire à l'encontre de la sentence arbitrale ayant accueilli le grief du Syndicat intimé rejetée

Le 24 mars 1999
Cour d'appel du Québec
(Baudouin, Otis et Denis [*ad hoc*] jj.c.a.)

Appel rejeté

Le 21 juin 1999
Cour suprême du Canada

Demande d'autorisation d'appel et requête en prorogation de délai déposées

27354 **DAVID K. MORRIS - v. - THE ATTORNEY GENERAL OF CANADA** (F.C.A.)

CORAM: L'Heureux-Dubé, Bastarache and LeBel JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Labour law - Unemployment Insurance - Administrative law - Judicial review - Natural Justice - Procedural law - Evidence - Hearsay - Cross-examination - Whether the principles of natural justice are denied to unemployment insurance claimants in that the Board regularly relies on hearsay evidence or third party written accounts of the Commission's Insurance Officers with no opportunity for the claimants to cross-examine or otherwise contest the validity of such evidence - Whether there are conflicting decisions of the Federal Court that require resolution on the application of the principles of natural justice to hearings involving allegations of misconduct by an employee.

PROCEDURAL HISTORY

September 17, 1996
Board of Referees
(Martin, Bates, Sabina [dissenting])

Applicant's appeal from decision of the Commission dismissed: Applicant disqualified from receiving benefits

March 26, 1998
(Hollingworth Umpire)

Applicant's appeal allowed; matter remitted to the Commission

April 15, 1999

Respondent's application for judicial review allowed;

Federal Court of Appeal
(Stone, Linden, Robertson JJ.A.)

matter remitted to the Chief Umpire for reconsideration

June 14, 1999
Supreme Court of Canada

Application for leave to appeal filed

27522 **EDWARD DEL GRANDE - v. - THE TORONTO DOMINION BANK** (Ont.)

CORAM: L'Heureux-Dubé, Bastarache and LeBel 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

Procedural law - Courts - Judgments and orders - Commercial law - Banks/banking operations - Bank loaning money to commercial group holding real estate - Economic downturn causing land to be unsaleable - Bank not advising against purchase or recommending sale - Bank suing for outstanding loan - Whether palpable and overriding error in trial judge's findings of fact.

PROCEDURAL HISTORY

July 4, 1995
Ontario Court of Justice (General Division)
(Coo J.)

Respondent's claim based on certain loan transactions were established

July 13, 1999
Court of Appeal for Ontario
(Catzman, Labrosse, and Moldaver JJ.A.)

Appeal dismissed; Respondent's cross-appeal against denial of solicitor-and-client costs dismissed

September 29, 1999
Supreme Court of Canada

Application for leave to appeal filed

APRIL 6, 2000 / LE 6 AVRIL 2000

27184 **PAUL MACPHERSON, GEORGE EWING AND JOHN STUART MCKENZIE v. ADGA SYSTEMS INTERNATIONAL INC.** (Ont.)

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

Procedural law - Pre-trial procedure - Summary judgment - Commercial law - Company law - Personal liability of corporate director and employees - Whether the Court of Appeal erred in dismissing motion for summary judgment - Whether individual officers, directors and senior employees of a corporation should be made personally liable in respect

of acts done in the course of their duties as such to the corporation and not in their personal capacities, where the acts in question are integral to the core competitive business activities of the corporation and are alleged to cause economic loss to a competitor.

PROCEDURAL HISTORY

April 19, 1995 Ontario Court of Justice (General Division) (Mercier J.)	Applicants' motion for summary judgment dismissed
October 3, 1997 Ontario Court (Divisional Court) (Smith, Chilcott and Greer JJ.)	Applicants' appeal allowed, action dismissed
January 12, 1999 Court of Appeal for Ontario (Carthy, Laskin and Goudge JJ.A.)	Respondent's appeal allowed, Applicants' motion for summary judgment dismissed
March 12, 1999 Supreme Court of Canada	Application for leave to appeal filed

27571 **DAVID BLOOM, ARTHUR KONVISER AND GLORIA ANDERSON v. MEDITRUST HEALTHCARE INC. - and between - RUTH MALLON v. MEDITRUST HEALTHCARE INC. - and between - SAM HIRSCH v. MEDITRUST HEALTHCARE INC. - and between - LEROY FEVANG v. MEDITRUST HEALTHCARE INC.** (Ont.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The applications for leave to appeal are dismissed with costs.

Les demandes d'autorisation d'appel sont rejetées avec dépens.

NATURE OF THE CASE

Procedural law - Pre-trial procedure - Motion to strike - Commercial law - Company law - Personal liability of corporate directors, officers and employees - Whether the Court of Appeal applied the correct legal test to determine whether a plea of personal liability against officers, directors or employees of a corporation for conduct undertaken by them in their corporate capacities was sustainable.

PROCEDURAL HISTORY

October 13, 1998 Ontario Court of Justice (General Division) (Molloy J.)	Respondent's claims against the Applicants dismissed without leave to amend and without prejudice to its right to add the Applicants by motion or in response to defence pleadings
September 9, 1999 Court of Appeal for Ontario (Carthy, Labrosse and Feldman JJ.A.)	Appeal allowed in part
November 1, 1999 Supreme Court of Canada	Application for leave to appeal filed by Applicants Bloom, Konviser and Anderson
November 5, 1999 Supreme Court of Canada	Separate applications for leave to appeal filed by the Applicants Mallon, Fevang and Hirsch

27754 **JAMES T. MELVILLE v. NBD BANK, CANADA AND DEFASCO INC. - and between - DOFASCO INC. v. NBD BANK, CANADA AND JAMES T. MELVILLE** (Ont.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The applications for leave to appeal are dismissed.

Les demandes d'autorisation d'appel sont rejetées.

NATURE OF THE CASE

Commercial law - Torts - Liability of employee officers for negligent misrepresentation - Statutes - Interpretation - Whether employee officers are personally liable for negligent misrepresentations made to parties who have voluntarily chosen to deal with a limited liability company - Whether the Applicants were acting in the best interests of their corporate employer - Whether policy reasons limit the Applicants' liability - Whether a claim for negligent misrepresentation can succeed where the plaintiff fails to testify that he recalls the statements upon which he is found to have relied - Whether the lower courts imposed a positive duty of disclosure on the Applicants - Whether s. 8 of the *Statute of Frauds*, R.S.O. 1990, c. S.19 applies to a claim of negligent misrepresentation - Whether the corporate employer's arrangement under the *Companies Creditors Arrangement Act*, R.S.C. 1985, c. C-36, affects the Applicants' liability.

PROCEDURAL HISTORY

March 27, 1997 Ontario Court of Justice (General Division) (Crane J.)	Applicants found jointly and severally liable to Respondent in the amount of US\$1,984,945.27 for negligent misrepresentation
December 15, 1999 Court of Appeal for Ontario (Krever, Carthy and Rosenberg JJ.A.)	Appeals by Applicants and cross-appeal by Respondent dismissed
February 11, 2000 Supreme Court of Canada	Application for leave to appeal by Applicant Melville filed
February 14, 2000 Supreme Court of Canada	Application for leave to appeal by Applicant Dofasco Inc. filed

27357 **TOTAL LEISURE R.V. MANUFACTURING LTD. v. FREEBIRD HOLDINGS LTD.** (Man.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed without costs.

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

NATURE OF THE CASE

Commercial law - Property law - Creditor and debtor - Real property - Right of redemption - Judgment creditor proceeding to sell property of debtor in accordance with *The Judgments Act*, R.S.M. c. J10 - Judgment debtor having sufficient funds to repay debt only after a master had authorized acceptance of an offer to purchase but before the approval was confirmed by the court - Whether a judgment debtor is pre-empted from redeeming its property once a master of the Court of Queen's Bench has authorized the acceptance of an offer to purchase the property.

PROCEDURAL HISTORY

December 8, 1998 Court of Queen's Bench of Manitoba (Master Ring)	Motion granted approving offer to purchase
December 16, 1998 Court of Queen's Bench of Manitoba (Kennedy J.)	Appeal allowed; order of Master set aside
April 15, 1999 Court of Appeal of Manitoba (Twaddle, Lyon, Monnin JJ.A.)	Appeal allowed; order of Master confirmed
June 14, 1999 Supreme Court of Canada	Application for leave to appeal filed

27435 **ONTARIO POWER GENERATION INC. v. MINISTER OF REVENUE** (Ont.)

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 - Statutes - Interpretation - Assessment - *Retail Sales Tax Act*, R.S.O. 1980, c. 454, s. 2(7) - Whether the interpretation of this statutory provision and other similar legislation involve an issue of public importance - Whether uncertainty has been created as a result of this decision - Whether the Court of Appeal erred in law.

PROCEDURAL HISTORY

February 2, 1996 Ontario Court of Justice (General Division) (Borins J.)	Applicant's appeals from assessment were dismissed
May 19, 1999 Court of Appeal for Ontario (Morden, Laskin, and Rosenberg JJ.A)	Appeal dismissed with costs
August 16, 1999 Supreme Court of Canada	Application for leave to appeal filed

27378 **CANADIAN MEDIA GUILD, LOCAL 30213 OF THE NEWSPAPER GUILD/COMMUNICATIONS WORKERS OF AMERICA (FORMERLY CANADIAN WIRE SERVICE GUILD, LOCAL 213 OF THE NEWSPAPER GUILD) AND DOUGLAS C. STANLEY v. CANADIAN BROADCASTING CORPORATION** (Nfld.)

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

Administrative Law - Judicial Review - Labour Law - Arbitration - Arbitrator cited a "central core" test for determining proper classification of an employee between two grades of employment - Arbitrator held employee should be classified at higher grade based on performance of tasks associated with that grade - Employee performing tasks associated with higher grade on average five percent of her time - Whether arbitrator departed from the cited test and asked a wrong question - Whether asking the wrong question gave rise to ground for review or resulted in a patently unreasonable decision - Degree of deference due to arbitrator's decision - Whether decision of arbitrator was not correct or patently unreasonable - Whether decision of a consensual arbitrator acting within his jurisdiction is immune from judicial review even if wrong or patently unreasonable - Whether test in the arbitral jurisprudence on reclassification is a rigid formula with the authority of common law.

PROCEDURAL HISTORY

May 14, 1997
Supreme Court of Newfoundland
(Adams J.)

Arbitrator's decision quashed

April 27, 1999
Court of Appeal of Newfoundland
(Mahoney, Green, O'Neill JJ.A.)

Appeal dismissed

June 28, 1999
Supreme Court of Canada

Application for leave to appeal filed

27572 **TUAN VAN PHAM - v. - HER MAJESTY THE QUEEN** (Crim.)(B.C.)

CORAM: L'Heureux-Dubé, Bastarache and LeBel JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Narcotics - Evidence - Best evidence rule - Applicant convicted of possession of a narcotic for the purpose of trafficking - Court of Appeal upholding conviction - Whether Court of Appeal erred in holding that best evidence rule did not preclude admissibility of oral secondary evidence as to contents of certain documents and photographs - Whether Court of Appeal erred in upholding trial judge's decision to admit oral secondary evidence because evidence was neither necessary nor reliable - Whether Court of Appeal erred in holding that evidence linking Applicant to third party was sufficient to establish Applicant's control over narcotics in possession of third party.

PROCEDURAL HISTORY

May 28, 1998
Supreme Court of British Columbia
(Baker J.)

Ruling on *voir dire* that certain evidence the Crown sought to admit was admissible

June 11, 1998
Supreme Court of British Columbia
(Baker J.)

Conviction: possession of a narcotic for the purpose of trafficking

September 29, 1999
Court of Appeal for British Columbia
(Hollinrake, Braidwood and Mackenzie JJ.A.)

Appeal dismissed

November 29, 1999
Supreme Court of Canada

Application for leave to appeal filed

27382 **RAJ AHLUWALIA - v. - THE COLLEGE OF PHYSICIANS AND SURGEONS OF MANITOBA** (Man.)

CORAM: L'Heureux-Dubé, Bastarache and LeBel 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

Labour law - Physicians and surgeons - Professional misconduct - Unfitness to practise medicine - Manitoba College of Physicians and Surgeons ordering Applicant's name erased from College register - Court of Queen's Bench upholding decision - Court of Appeal setting aside order of erasure and ordering six-month suspension - Whether superior court entitled to review disciplinary bodies' deliberations with same authority as it is entitled to review decision of a superior court judge - Whether inquiry panel hearing fairly conducted - Whether participation of College's solicitor in hearing leads to appearance of bias which would invalidate any discipline imposed - Whether fact major participants in a citation concerning a professional are all associated with the professional association results in an apprehension of bias - Whether citizen's reliance on solicitor-client privilege as ground for excluding evidence raises inference against citizen with respect to evidence for which privilege is claimed.

PROCEDURAL HISTORY

January 8, 1997 Executive Committee of the College of Physicians and Surgeons of Manitoba	Erasure of Applicant's name from College register ordered
July 30, 1998 Court of Queen's Bench of Manitoba (Krinkle J.)	Application for review and application for fresh evidence dismissed
January 25, 1999 Court of Appeal of Manitoba (Huband, Helper, and Monnin JJ.A.)	Applicant's appeal respecting findings of professional misconduct and unfitness to practise medicine dismissed
May 14, 1999 Court of Appeal of Manitoba (Huband, Helper and Monnin JJ.A.)	Order of erasure from register set aside; six-month suspension ordered
June 28, 1999 Supreme Court of Canada	Application for leave to appeal filed

27403 **WILLIAM FREDERICK DAWES AND LORRAINE BEVERLY DAWES - v. - PETER EDWARD JAJCAJ AND BEVERLY LYNN SCHOUTEN (B.C.)**

CORAM: L'Heureux-Dubé, Bastarache and LeBel 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

Torts - Motor vehicles - Damages - Spoliation - Doctrine of spoliation has not been considered by this Court since the case of *St. Louis v. The Queen*, [1895] 25 S.C.R. 649 - Whether the state of the law, as a result of this appellate decision, will

probably result in significant injustice in other cases as well as this case - Whether the Court of Appeal misapprehended its duty with respect to appeals based upon an argument of palpable and overriding error.

PROCEDURAL HISTORY

November 3, 1995 Supreme Court of British Columbia (Boyd J.)	Applicants' action seeking damages for personal injuries sustained in a motor vehicle accident dismissed
November 10, 1995 Supreme Court of British Columbia (Boyd J.)	Ruling: Respondent's expert's reports are relevant and admissible
April 14, 1999 Court of Appeal for British Columbia (Prowse, Finch, and Mackenzie JJ.A.)	Appeal dismissed
June 10, 1999 Court of Appeal for British Columbia (Esson J.A.)	Motion to extend time to file application for leave to appeal granted
July 23, 1999 Supreme Court of Canada	Application for leave to appeal filed

27377 **CANADA POST CORPORATION - v. - CANADIAN POSTMASTERS AND ASSISTANTS ASSOCIATION (F.C.A.)**

CORAM: L'Heureux-Dubé, Bastarache and LeBel 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

Administrative law - Judicial review - Standard of review - Whether standard of review on issue of bad faith involving general legal reasoning is one of correctness under s. 41(d) of the *Canadian Human Rights Act*, R.S.C. 1985, c. H-6 - Whether Federal Court of Appeal erred in failing to hold that the Canadian Human Rights Commission exceeded its authority by taking into account whether other procedures were "more appropriate" rather than "otherwise available" pursuant to s. 41(d) of the *Act*

PROCEDURAL HISTORY

May 8, 1997 Federal Court of Canada, Trial Division (Rothstein J.)	Application for judicial review of a decision of the Canadian Human Rights Commission dismissed
April 29, 1999 Federal Court of Appeal (Isaac C.J., Stone and Desjardins JJ.A.)	Appeal dismissed
June 25, 1999 Supreme Court of Canada	Application for leave to appeal filed

27304 **SOCIETY OF COMPOSERS, AUTHORS AND MUSIC PUBLISHERS OF CANADA - v. -
CANADIAN ASSOCIATION OF BROADCASTERS and SOCIÉTÉ DU DROIT DE
REPRODUCTION DES AUTEURS, COMPOSITEURS ET ÉDITEURS AU CANADA (F.C.A.)**
(Ont.)

CORAM: Gonthier, Binnie and Arbour 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

Administrative law - Broadcasting - Judicial review - Jurisdiction - Copyright Board certifying Applicant's tariff for commercial television stations - Whether Copyright Board had jurisdiction to incorporate the modified blanket licence in Applicant's tariff as a new and additional form of licence that could be used by a broadcaster at its option - Whether Board in so amending Applicant's tariff was motivated by an extraneous and irrelevant consideration.

PROCEDURAL HISTORY

March 19, 1999 Federal Court of Appeal (Décary, Robertson and Noël JJ.A.)	Application for judicial review of a decision of the Copyright Board certifying the Applicant's tariff for the year 1997 dismissed
May 18, 1999 Supreme Court of Canada	Application for leave to appeal filed

27311 **ENTRE: JEAN LAMY - c. - LA SOCIÉTÉ CANADIENNE DES POSTES, et PROCUREUR GÉNÉRAL DU CANADA, et LA COMMISSION DES LÉSIONS PROFESSIONNELLES, et LA COMMISSION DE LA SANTÉ ET DE LA SÉCURITÉ DU TRAVAIL - ET ENTRE - COMMISSION DES LÉSIONS PROFESSIONNELLES - c. - SOCIÉTÉ CANADIENNE DES POSTES, et JEAN LAMY, et COMMISSION DE LA SANTÉ ET DE LA SÉCURITÉ DU TRAVAIL, et PROCUREUR GÉNÉRAL DU CANADA - ET ENTRE - COMMISSION DE LA SANTÉ ET DE LA SÉCURITÉ DU TRAVAIL - c. - SOCIÉTÉ CANADIENNE DES POSTES, et PROCUREUR GÉNÉRAL DU CANADA, et COMMISSION D'APPEL EN MATIÈRE DE LÉSIONS PROFESSIONNELLES et RÉMI CHARTIER, et JEAN LAMY** (Qué.)

CORAM: Les juges Gonthier, Binnie et Arbour

Les demandes d'autorisation d'appel sont rejetées avec dépens.

The applications for leave to appeal are dismissed with costs.

NATURE DE LA CAUSE

Droit du travail - Droit administratif - Législation - Accidents du travail - Interprétation - Contrôle judiciaire - Quelle est l'étendue du renvoi aux lois provinciales d'accidents du travail et de maladies professionnelles qu'effectue la *Loi sur l'indemnisation des employés de l'État*, L.R.C. 1970, ch. C-9 (ci-après "la L.I.E.É.")? - Quelle est la norme de contrôle applicable à l'égard de la décision d'un organisme provincial portant sur l'application d'une disposition de preuve et de procédure alors qu'il est habilité par le législateur fédéral en vertu de la L.I.E.É. à décider des questions d'admissibilité à l'indemnisation pour les employés de l'État fédéral? - Quelle est la norme de contrôle judiciaire applicable à la décision rendue par la Commission d'appel en matière de lésions professionnelles pour décider du droit à l'indemnité du demandeur Jean Lamy? - La Commission d'appel en matière de lésions professionnelles pouvait-elle décider du droit à l'indemnisation du demandeur Lamy en appliquant l'article 28 de la *Loi sur les accidents du travail et les maladies professionnelles*, L.R.Q., ch. A-3.001 (ci-après "la L.A.T.M.P.")?

HISTORIQUE PROCÉDURAL

Le 23 décembre 1992
Cour supérieure du Québec
(Philippon j.c.s.)

Requête en révision judiciaire d'une décision de la Commission d'appel en matière de lésions professionnelles rejetée

Le 25 mars 1999
Cour d'appel du Québec
(LeBel, Nuss, et Denis [*ad hoc*] jj.c.a.)

Appel de l'intimée la Société canadienne des postes accueilli en partie; Requête en révision judiciaire accueillie en partie; Décision de la Commission d'appel en matière de lésions professionnelles annulée

Le 21 mai 1999
Cour suprême du Canada

Demande d'autorisation d'appel du demandeur Lamy déposée

Le 25 mai 1999
Cour suprême du Canada

Demande d'autorisation d'appel de la Commission des lésions professionnelles déposée

Le 25 mai 1999
Cour suprême du Canada

Demande d'autorisation d'appel de la Commission de la santé et de la sécurité du travail déposée

17.3.2000

Before / Devant: CHIEF JUSTICE McLACHLIN

Motion on behalf of the *mis en cause* Attorney General of Quebec for additional time to present oral argument

Requête du mis-en- cause la Procureure générale du Québec en prorogation du temps accordé pour la plaidoirie

Advance Cutting & Coring Ltd., et al.

v. (26664)

Her Majesty the Queen (Que.)

DISMISSED / REJETÉE

20.3.2000

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

Advance Cutting & Coring Ltd., et al.

v. (26664)

Her Majesty the Queen (Que.)

GRANTED / ACCORDÉE Time extended to March 14, 2000.

21.3.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the appellant's record and for an order allowing the appellant's record to be printed on legal size paper

Requête en prorogation du délai imparti pour signifier et déposer le dossier de l'appelant et en autorisation d'imprimer le dossier de l'appelant sur papier de format légal

Ahmad Abdulaal Al Sagban

v. (27111)

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

GRANTED / ACCORDÉE Motion granted and time extended to March 3, 2000, *nunc pro tunc*.

21.3.2000

Before / Devant: LE REGISTRAIRE

Requête du mis-en-cause Le Club Juridique pour obtenir la permission de faire affaire avec le greffe sans correspondant

Motion for an order permitting the *mis en cause* Le Club Juridique to deal with the Registry without agent

Le Barreau du Québec

c. (27152)

Simon Fortin, et al. (Qué.)

GRANTED / ACCORDÉE

21.3.2000

Before / Devant: LE REGISTRAIRE

Requête des intimés pour obtenir la permission de faire affaire avec le greffe sans correspondant

Motion for an order permitting the respondents to deal with the Registry without agent

Le Barreau du Québec

c. (27152)

Simon Fortin, et al. (Qué.)

GRANTED / ACCORDÉE

22.3.2000

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

Her Majesty the Queen

v. (26930)

Marijana Ruzic (Crim.)(Ont.)

GRANTED / ACCORDÉE Time extended to March 6, 2000.

23.3.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the appellants' 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 des appelants

Arthur David Gabriel, et al.

v. (27161)

Her Majesty the Queen, et al. (Crim.)(Man.)

GRANTED / ACCORDÉE Time extended to February 18, 2000, *nunc pro tunc* to serve and file the record and factum and to February 21, 2000, *nunc pro tunc* for its book of authorities.

23.2.2000

Before / Devant: LE REGISTRAIRE

Requête en prorogation du délai imparti pour signifier et produire le mémoire, le dossier et le recueil de jurisprudence et de doctrine des appelantes

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

Services des espaces verts Ltée / Chemlawn, et al.

c. (26937)

Ville de Hudson (Qué.)

GRANTED / ACCORDÉE Délai prorogé au 11 avril 2000.

23.3.2000

Before / Devant: BINNIE 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 produire une demande d'autorisation

Jean-Claude Pascal

v. (27769)

Household Trust Company (Ont.)

DISMISSED WITH COSTS / REJETÉE AVEC DÉPENS

24.3.2000

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: Senate of the Italian Republic

IN/DANS: Minister of Justice

v. (26129)

Glen Sebastian Burns et al.
(Crim.)(B.C.)

GRANTED / ACCORDÉE

IT IS HEREBY ORDERED THAT:

- 1) The motion for an extension of time and for leave to intervene of the applicant Senate of the Italian Republic is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length to be filed no later than April 10, 2000.
- 2) Leave to present oral argument is denied.

The intervener shall not be entitled to adduce further evidence or otherwise to supplement the record apart from its factum.

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

16.3.2000

Before / Devant: LE REGISTRAIRE

Taxation of the Bill of Costs**Taxation du mémoire de frais**

156036 Canada Inc.

c. (27158)

Les pétroles Therrien Inc. (Qué.)

Par jugement rendu le 27 janvier 2000, la Cour suprême du Canada a accordé la demande d'extension de délai et rejeté la demande d'autorisation d'appel avec dépens dans l'affaire en rubrique.

L'intimée a produit un mémoire de frais contesté en grande partie par la demanderesse.

Il est bien établi que les parties doivent minimiser les frais dans toute la mesure du possible, en particulier en ce qui a trait à la reproduction extensive des témoignages, de la jurisprudence et d'autres autorités. L'alinéa 23(1) c) des Règles de la Cour et l'Avis aux avocats de décembre 1993 sont très clairs à ce sujet.

Vu ce contexte, je conclus que contrairement à ce qu'elle demande, l'intimée a seulement droit à une fraction des honoraires pour le premier exemplaire de la réponse selon l'al. 2e) de la Partie I de l'annexe B du Tarif d'honoraires et de débours, soit les honoraires correspondant à 11 pages pour la réponse elle-même et à 70 pages pour une partie

seulement des témoignages et de la jurisprudence reproduits. Le montant des débours fixés selon l'art. 2 de la Partie II sera ajusté en conséquence.

L'alinéa 1c) de la Partie I du Tarif confie au registraire le pouvoir discrétionnaire d'accorder des honoraires supplémentaires pour la rédaction du mémoire des arguments. En l'espèce, je réduis le montant demandé à 100 \$.

Les dépens sont taxés en conséquence.

In a judgment rendered on January 27, 2000, the Supreme Court of Canada granted the request for an extension of time and dismissed the application for leave to appeal with costs in the above-mentioned case.

The respondent filed a bill of costs most of which was contested by the applicant.

It is well established that the parties must do their utmost to minimize costs, in particular with regard to the extensive reproduction of testimony, case law and other authorities. Paragraph 23(1)(c) of the Rules of the Court and the Notice to the Profession of December 1993 are very clear in this regard.

Given this situation, I conclude that, contrary to what the respondent is requesting, it is entitled only to a fraction of the fees for the first copy of the reply in accordance with para. 2(e) of Part I of Schedule B of the Tariff of Fees and Disbursements, i.e., the fees corresponding to 11 pages for the reply itself and to 70 pages for only part of the testimony and the case law reproduced. The amount of the disbursements determined in accordance with s. 2 of Part II will be adjusted accordingly.

Paragraph 1(c) of Part I of the Tariff of Fees and Disbursements gives the Registrar discretion to grant an additional fee for preparation of the memorandum of argument. In the instant case, I reduce the amount requested to \$100.

The costs are taxed accordingly.

28.3.2000

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'intimé

Elwyn Patterson, et al.

v. (27757)

Attorney General of British Columbia, et al. (B.C.)

GRANTED / ACCORDÉE Time extended to March 22, 2000.

31.3.2000

Before / Devant: BINNIE 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**

Murray Ernest Greenwood, as administrator ad litem for
Don Wilhelm

v. (27807)

Vernon Hickson, et al. (Sask.)

GRANTED / ACCORDÉE Time extended to March 22, 2000.

31.3.2000

Before / Devant: BINNIE J.

Motion on behalf of the Applicant to file a memorandum of argument on leave to appeal of over 20 pages

Requête du demandeur pour permission de déposer un mémoire sur une demande d'autorisation de plus de 20 pages

Raymond Haid Shalala

v. (27810)

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

ALLOWED IN PART / ACCUEILLIE EN PARTIE

Order to go extending the length of the memorandum of argument of 20 to 25 pages, provided usual margins, type size, spacing and format is complied with. Except as aforesaid, motion is dismissed.

31.3.2000

Before / Devant: BINNIE 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

Raymond Haid Shalala

v. (27810)

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

GRANTED / ACCORDÉE Time extended to April 20, 2000.

3.4.2000

Before / Devant: THE REGISTRAR

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

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

Gerald Augustine Regan

v. (27541)

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

GRANTED/ ACCORDÉE Time extended to June 20, 2000.

3.4.2000

Before / Devant: BASTARACHE J.

Motion for extension of time and leave to intervene

**Requête en prorogation de délai et en autorisation
d'intervenir**

BY/PAR: Attorney General of Alberta

IN/DANS: Karl Find

v. (27495)

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

GRANTED / ACCORDÉE

IT IS HEREBY ORDERED THAT:

1. The motion for an extension of time and for leave to intervene of the applicant Attorney General of Alberta is granted, the applicant shall be entitled to serve and file a factum not to exceed 15 pages in length.

The intervener shall not be entitled to adduce further evidence or otherwise to supplement the record apart from its factum.

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.

**NOTICE OF APPEAL FILED SINCE
LAST ISSUE**

**AVIS D'APPEL DÉPOSÉS DEPUIS LA
DERNIÈRE PARUTION**

24.3.2000

Tom Dunmore et al.

v. (27216)

**Attorney General for the Province of Ontario et al.
(Ont.)**

24.3.2000

Werner Patek et al.

c. (27817)

Sa Majesté la Reine (Qué.)

DE PLEIN DROIT

10.3.2000

W.B.C.

v. (27822)

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

AS OF RIGHT

WEEKLY AGENDA

ORDRE DU JOUR DE LA SEMAINE

AGENDA for the weeks beginning April 10 and April 17, 2000.
ORDRE DU JOUR pour les semaines commençant les 10 avril et 17 avril 2000.

<u>Date of Hearing/ Date d'audition</u>	<u>Case Number and Name/ Numéro et nom de la cause</u>
2000/04/10	Motions - Requêtes
2000/04/11 & 2000/04/12	Neil Grandmaison, et al. v. Her Majesty the Queen (B.C.) (Criminal) (By Leave) (26898) Robert Jenkins, et al. v. Her Majesty the Queen (B.C.) (Criminal) (By Leave) (26899) Angela Araujo, et al. v. Her Majesty the Queen (B.C.) (Criminal) (By Leave) (26904) Kevin Lathangue v. Her Majesty the Queen (B.C.) (Criminal) (By Leave) (26943) Jolene Irons v. Her Majesty the Queen (B.C.) (Criminal) (By Leave)(26968)
2000/04/13	Patrick Charlebois c. Sa Majesté la Reine (Qué.) (Criminelle) (De plein droit) (27213)
2000/04/17	Warren Laverne Knoblauch v. Her Majesty the Queen (Alta.) (Criminal) (By Leave) (27238)

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.

26898, 26899, 26904, 26943 and 26968 *Neil Grandmaison et al. v. Her Majesty The Queen*

Criminal law - Intercepted private communications - Wiretaps - Judicial review - Whether the Court of Appeal erred in holding that the test for the issuance of an authorization to intercept private communications is simply a showing that intercepts will be the most efficacious manner of investigation - Whether the Court of Appeal erred in ruling that the trial judge ought not to have relied on an adverse finding of credibility to hold that the affidavit could not be relied upon and an authorization could not have been granted in circumstances of an unreliable affiant - Whether the Court of Appeal erred in holding that the Crown appeal was an appeal on a question of law.

A police investigation of the Appellants began in January 1995 and ended on October 24, 1995, with the execution of fourteen search warrants at various residences and with the arrests of the Appellants. The Crown's case included surveillance evidence, intercepted private communications, and the results of the searches, which yielded 4.3 kilograms of cocaine, a cocaine press, large amounts of cash, trafficking paraphernalia, score sheets, and several restricted as well as prohibited weapons.

At trial, the Crown filed three Part VI authorizations pursuant to which the private communications were intercepted. Due to alleged irregularities in the information sworn to obtain the warrants, counsel for the accused applied to cross-examine the affiant, Cst. Rosset, on the affidavit he swore in support of the authorization application. The affidavit consisted of 130 pages and contained information from different confidential sources. Cst. Rosset testified that he had made a mistake in the description of his sources and that he discovered the error some time before the trial but did not tell anyone of the mistake. He also testified that he did not have access to the debriefing report at the time but made a mental note of the error and had intended to correct it later, but he forgot about the mistake and did not remember it again until he was cross-examined.

The trial judge accepted that Cst. Rosset's mistake was an inadvertent error, but he found that Cst. Rosset's explanation about forgetting the mistake until a month or so before trial affected his credibility to such an extent that it cast doubt upon the existence of reasonable and probable grounds set out in the affidavit to the point that the authorizing judge could not have granted the authorization. The trial judge also set aside the authorization on the basis that the requirements of s. 186(1)(b) of the *Criminal Code* had not been met. The authorization was set aside, and the Appellants were acquitted. The Crown appealed the acquittals to the Court of Appeal. The appeal was allowed and a new trial ordered.

Origin of the case:	British Columbia
File No.:	26898, 26899, 26904, 26943 and 26968
Judgment of the Court of Appeal:	June 30, 1998
Counsel:	Robert C. Claus for the Appellants Grandmaison and Khoury Michael J.B. Munro for the Appellant Camara Sidney B. Simons for the Appellants Jenkins, T. Leslie, Irons Adrian F. Brooks for the Appellant Araujo David N. Lyon for the Appellant S. Leslie D. Mayland McKimm for the Appellant Lathangue S. David Frankel Q.C. for the Respondent

26898, 26899, 26904, 26943 et 26968 *Neil Grandmaison et autres c. Sa Majesté la Reine*

Droit criminel - Interception de communications privées - Écoute électronique - Contrôle judiciaire - La Cour d'appel a-t-elle commis une erreur en décidant que le critère pour l'octroi d'une autorisation en vue d'intercepter des communications privées est simplement une démonstration que l'interception serait la façon la plus efficace de mener l'enquête? - La Cour d'appel a-t-elle commis une erreur en décidant que le juge du procès n'aurait pas du se fier à la décision défavorable relative à la crédibilité pour décider que l'on ne pouvait se fier à l'affidavit et qu'une autorisation n'aurait pu être octroyée dans des circonstances où le déposant était peu fiable? - La Cour d'appel a-t-elle commis une erreur en décidant que l'appel interjeté par le ministère public était un appel sur une question de droit?

La police a ouvert une enquête sur les appelants au mois de janvier 1995; l'enquête s'est terminée le 24 octobre 1995 par l'exécution de 14 mandats de perquisition dans diverses résidences et par l'arrestation des appelants. La preuve du ministère public comprenait de la preuve issue de surveillance, des communications privées interceptées et des résultats de perquisitions, qui ont rapporté 4,3 kilogrammes de cocaïne, une presse à cocaïne, d'importantes sommes d'argent, un attirail pour le trafic, des listes de comptes clients et plusieurs armes à autorisation restreinte de même que des armes prohibées.

Lors du procès, le ministère public a déposé trois autorisations relevant de la partie VI en vertu desquelles les communications privées ont été interceptées. En raison d'irrégularités alléguées relativement à l'information fournie sous serment pour obtenir les mandats, l'avocat de l'accusé a demandé de contre-interroger le déposant, le gend. Rosset, sur l'affidavit qu'il a produit au soutien de la demande d'autorisation. L'affidavit comprenait 130 pages et renfermait de l'information provenant de différentes sources confidentielles. Le gend. Rosset a témoigné qu'il avait commis une erreur dans la description de ses sources et qu'il avait découvert l'erreur quelque temps avant le procès mais qu'il n'avait mis personne au courant de l'erreur. Il a également témoigné qu'il n'avait pas eu accès au compte rendu du rapport à l'époque mais qu'il avait gardé l'erreur en tête et avait eu l'intention de la corriger plus tard, mais qu'il l'avait oubliée et ne s'en était pas rappelé jusqu'à ce qu'il soit contre-interrogé.

Le juge du procès a cru que l'erreur du gend. Rosset avait été commise par inadvertance, mais il a conclu que l'explication fournie par le gend. Rosset selon laquelle il ne s'était rappelé de l'erreur qu'environ un mois avant la tenue du procès avait affecté sa crédibilité à un point tel que cela mettait en doute l'existence de motifs raisonnables énoncés dans l'affidavit au point que le juge auquel la demande d'autorisation a été présentée n'aurait pu octroyer l'autorisation. Le juge du procès a également annulé l'autorisation au motif que les exigences posées par l'art. 186(1)b) du *Code criminel* n'avaient pas été respectées. L'autorisation a été annulée et les appelants ont été acquittés. Le ministère public a interjeté appel des acquittements devant la Cour d'appel. L'appel a été accueilli et la tenue d'un nouveau procès a été ordonnée.

Origine : Colombie-Britannique

N° du greffe : 26898, 26899, 26904, 26943 et 26968

Arrêt de la Cour d'appel : Le 30 juin 1998

Avocats : Robert C. Claus pour les appelants Grandmaison et Khoury
Michael J. B. Munro pour l'appelant Camara
Sidney B. Simons pour les appelants Jenkins, T. Leslie, Irons
Adrian F. Brooks pour l'appelant Araujo
David N. Lyon pour l'appelant S. Leslie
D. Mayland McKimm pour l'appelant Lathangue
S. David Frankel, c.r., pour l'intimée

27213 *Patrick Charlebois v. Her Majesty the Queen*

Criminal law - Trial - Evidence - Defence - Self-defence - Evidence of good character - Whether the trial judge erred in law by allowing the prosecution to ask the accused if he was willing to undergo a psychiatric second assessment by a prosecution-appointed expert and provide a blood sample for analysis - Whether the trial judge erred in law by: (1) failing to present objectively to the jury the facts of the case relevant to the defence's argument; (2) giving the jury incorrect instructions in law regarding the appellant's defence of self-defence; (3) giving the jury incorrect instructions in law regarding the effect of the appellant's evidence of good character - If so, whether those errors caused the appellant a substantial wrong or trigger subparagraph 686(1)(b)(iii) of the *Criminal Code*, R.S.C., 1985, c. C-46.

Over the years, the appellant developed a dependent personality. He befriended Éric Jetté, the victim, and became his whipping boy. The victim was a violent person, and the appellant was in constant fear of him. On the night of his death, Jetté came to the home of the appellant, much to his chagrin. Some time later, Jetté allegedly drew a knife across the appellant's face, saying [TRANSLATION] "We're gonna have ourselves some fun tonight." The appellant admitted that he did not personally see that the object in question was a knife. He stated that after the victim had drawn the object across his face, he did see a knife in the victim's hands. The incident was corroborated by one Lalancette, who was with the appellant and Jetté at the time, but never told investigators about the knife incident. The appellant's fear was exacerbated when he noticed that the victim had seen a gun in the apartment, a gun Jetté had wanted to buy from him and he had refused to sell, claiming he no longer had it. Then the appellant's roommate arrived. Jetté ordered the appellant to turn off the television, and the appellant went back to his room. When Jetté appeared to be sleeping, face down on a couch in the living room, the appellant got up, approached and shot him in the back of the head. He then left the premises, dialled 911 and confessed. By way of defence, the appellant quoted Dr. Lafleur, psychiatrist, who said that at the time of the homicide, the appellant was in such a state of anxiety that he could have felt threatened and thought it necessary to kill the victim to prevent the threat from being carried out. The appellant's argument before the jury was that he had acted in self-defence. The appellant was accused of first degree murder but convicted of second degree murder. The appeal was dismissed by the Court of Appeal, Fish J.A. dissenting.

Origin of the case:	Quebec
File No.:	27213
Judgment of the Court of Appeal:	February 26, 1999
Counsel:	Michel Pennou for the Appellant Stella Gabbino for the Respondent

27213 *Patrick Charlebois c. Sa Majesté la Reine*

Droit criminel - Procès - Preuve - Défense - Légitime défense - Preuve de bon caractère - Le juge de première instance a-t-il erré en droit en permettant au poursuivant de poser une question à l'accusé sur sa volonté de se soumettre ou non à une contre-expertise psychiatrique par un expert désigné par la poursuite ainsi que sur sa volonté de se soumettre à la prise d'un échantillon de sang pour fin d'analyse? - Le juge de première instance a-t-il erré en droit en (1) ne présentant pas au jury de façon objective les faits de la cause pertinents à la thèse avancée par la défense; (2) donnant au jury des directives erronées en droit eu égard à la défense de légitime défense soumise par l'appelant; (3) donnant au jury des directives erronées en droit quant à la portée de la preuve de bon caractère présentée par l'appelant? - Dans l'affirmative, ces erreurs ont-elles causé à l'appelant un tort sérieux et donnent-elles lieu à l'application de l'article 686(1)b)iii) du *Code criminel*, L.R.C. (1985), ch. C-46?

L'appelant a développé, au fil des ans, une personnalité dépendante. Il s'est lié d'amitié avec Éric Jetté, la victime, dont il est devenu le souffre-douleur. La victime était un être violent dont l'appelant avait une peur chronique. La nuit de l'incident, la victime s'est présenté chez l'appelant à son grand déplaisir. Quelque temps après, la victime lui aurait passé un couteau sur la figure en lui disant «On va se faire du fun à soir». L'appelant a concédé qu'il n'avait pas personnellement vu que l'objet en question était un couteau. Il a affirmé qu'il avait vu qu'après lui avoir passé l'objet dans la figure, la victime avait un couteau dans les mains. L'incident a été corroboré par Lalancette, qui se trouvait avec l'appelant et la victime à ce moment-là, mais qui n'a jamais parlé de l'incident du couteau aux enquêteurs qui l'interrogeaient. La peur de l'appelant a été exacerbée lorsqu'il constata que la victime avait vu qu'il y avait une arme dans l'appartement, arme que la victime avait voulu acheter de l'appelant et que celui-ci avait refusé de lui vendre en prétextant qu'il ne la possédait plus. Le colocataire de l'appelant arriva ensuite. La victime intima l'ordre à l'appelant d'éteindre la télé et ce dernier regagna sa chambre. Au moment où la victime semblait dormir à plat ventre sur un canapé du salon, l'appelant se leva et, s'approchant de la victime, lui tira un coup de fusil derrière la tête. L'appelant quitta alors les lieux et composa le 911 où il avoua son geste. En guise de défense, l'appelant a cité le psychiatre Lafleur qui a affirmé que, lors de l'homicide, l'appelant était dans un état d'anxiété tel qu'il est possible qu'il se soit senti menacé et que, pour empêcher la réalisation de cette menace, il ait cru nécessaire de tuer la victime. La thèse de l'appelant devant le jury était qu'il avait agi en légitime défense. L'appelant a été accusé de meurtre au premier degré, mais a été trouvé coupable de meurtre au deuxième degré. Le pourvoi a été rejeté par la Cour d'appel, le juge Fish étant dissident.

Origine: Québec
N° du greffe: 27213
Arrêt de la Cour d'appel: Le 26 février 1999
Avocats: Me Michel Pennou pour l'appelant
Me Stella Gabbino pour l'intimée

27238 Warren Laverne Knoblauch v. Her Majesty The Queen

Criminal Law - Sentencing - Conditional Sentence - Whether the Court of Appeal erred in concluding that the phrase “would not endanger the safety of the community” in s. 742.1 of the *Criminal Code* was not met given the psychiatric evidence adduced and the proposed place of service of the conditional sentence.

In 1993, the Appellant brought a firearm to work with intent to shoot a co-worker. He received a conditional discharge, three years probation, and a ten year firearms prohibition for possession of weapons and explosives. In January, 1998, he injured a finger while designing and building a detonator device. On July 20, 1998, the Respondent stated to a co-worker that he had thought about blowing up a dog to calm himself. The next day he apologized to the co-worker, pulled a gym bag from his car and opened it. Inside was a jar three-quarters full of fluids and wires extending from the jar which appeared to the co-worker to be a bomb. The next day, the Appellant did not appear for work and the police were notified. The police went to the Appellant’s residence and found pipe bombs, detonators and enough ammonia nitrate to damage the Appellant’s apartment and apartments two to three stories above, below and to the sides of the Appellant’s apartment. In the Appellant’s vehicle was a suicide bomb capable of destroying the vehicle and damaging people and property within a 75 metre radius.

The Appellant was charged and held in the locked, secure, psychiatric unit of the Alberta Hospital in Edmonton. He pleaded guilty to possession of an explosive substance without lawful excuse contrary to s. 100(2) of the *Criminal Code* and with unlawful possession of a weapon, an explosive device, for a purpose dangerous to the public peace contrary to s. 87. Chrumka J. of the Provincial Court held that serving his sentence in the community would not endanger the safety of the community. Pursuant to s. 742.1 of the *Criminal Code*, he ordered a conditional sentence of two years less one day and imposed conditions that included that the community be defined as the Alberta Hospital and that he remain in the locked unit of the hospital until a consensus of psychiatric professionals decided to transfer him from the locked unit.

The Respondent appealed from the sentence. The Court of Appeal allowed the appeal and ordered a sentence of three years in a penitentiary reduced to two years less one day in recognition of time already held in custody in the locked unit of the Alberta Hospital. The Court of Appeal recommended that the sentence be served at the Fort Saskatchewan Provincial Correctional Institute. It ordered a three year probation period subject to the same terms imposed on probation by the sentencing judge.

Origin of the case:	Alberta
File No.:	27238
Judgment of the Court of Appeal:	March 2, 1999
Counsel:	Mona Duckett for the Appellant Arnold Schlayer for the Respondent

27238 *Warren Laverne Knoblauch c. Sa Majesté la Reine*

Droit criminel - Détermination de la peine - Emprisonnement avec sursis - La Cour d'appel a-t-elle commis une erreur en concluant que la phrase « ne met pas en danger la sécurité de [la collectivité] » de l'art. 742.1 du *Code criminel* n'avait pas été prise en compte étant donné la preuve psychiatrique présentée et l'endroit proposé pour purger l'emprisonnement avec sursis.

En 1993, l'appelant a apporté une arme à feu au travail avec l'intention de faire feu sur un collègue de travail. Il a reçu une absolution conditionnelle assortie d'une probation de trois ans et d'une interdiction d'avoir en sa possession une arme à feu ou des substances explosives pendant une période de dix ans. Au mois de janvier 1998, il s'est blessé à un doigt alors qu'il était à concevoir et construire un détonateur. Le 20 juillet 1998, l'appelant a dit à un collègue de travail qu'il avait pensé à faire sauter un chien pour se calmer. Le lendemain, il a présenté des excuses au collègue de travail, a sorti un sac de sport de sa voiture et l'a ouvert. À l'intérieur, il y avait un pot rempli de liquide aux trois-quarts, des fils y étaient reliés et cela a paru être une bombe au collègue de travail. Le lendemain, l'appelant ne s'est pas présenté au travail et la police en a été avertie. La police s'est rendue à la résidence de l'appelant et y a trouvé des bombes tuyau, des détonateurs et du nitrate d'ammonium en quantité suffisante pour endommager son appartement ainsi que les appartements qui se trouvaient deux à trois étages au-dessus, au-dessous et de chaque côté du sien. À l'intérieur du véhicule de l'appelant, il y avait une bombe suicide capable de détruire le véhicule et de blesser les gens et endommager les biens dans un rayon de 75 mètres.

L'appelant a été accusé et détenu dans l'unité de psychiatrie sous clé et sécuritaire de l'hôpital de l'Alberta à Edmonton. Il a plaidé coupable relativement à l'infraction d'avoir eu en sa possession une substance explosive sans excuse légitime contrairement à l'art. 100(2) du *Code criminel* et de possession illégale d'une arme, d'un dispositif explosif, dans un dessein dangereux pour la paix publique contrairement à l'art. 87. Le juge Chrumka de la Cour provinciale a décidé que le fait qu'il purge sa peine dans la collectivité ne mettrait pas en danger la sécurité de cette dernière. Conformément à l'art. 742.1 du *Code criminel*, il a rendu une ordonnance d'emprisonnement avec sursis de deux ans moins un jour et a imposé des conditions qui prévoyaient notamment que la collectivité soit définie comme étant l'hôpital de l'Alberta et qu'il demeure dans l'unité sous clé de l'hôpital jusqu'à ce que des professionnels en psychiatrie soient d'avis de le transférer hors de l'unité sous clé.

L'appelant a interjeté appel contre la peine. La Cour d'appel a accueilli l'appel et a ordonné une peine de trois ans de pénitencier, réduite cependant à deux ans moins un jour en considération du temps déjà purgé en détention dans l'unité sous clé de l'hôpital de l'Alberta. La Cour d'appel a recommandé que la peine soit purgée au Fort Saskatchewan Provincial Correctional Institute.

Elle a ordonné une période de probation de trois ans assortie des mêmes modalités que celles imposées par le juge chargé de l'imposition de la peine.

Origine :	Alberta
N° du greffe :	27238
Arrêt de la Cour d'appel :	le 2 mars 1999
Avocats :	Mona Duckett pour l'appelant Arnold Schlayer pour l'intimée

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**INDEX CUMULATIF - REQUÊTES
EN AUTORISATION DE POURVOI**

This index includes applications for leave to appeal standing for judgment at the beginning of 2000 and all the applications for leave to appeal filed or heard in 2000 up to now.

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Cet index comprend les pourvois en délibéré au début de 2000 et tous ceux entendus en 2000 jusqu'à maintenant.

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*02 dismissed with costs/rejeté avec dépens

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*04 allowed with costs/accueilli avec dépens

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APPEALS INSCRIBED FOR
HEARING AT THE SESSION OF
THE SUPREME COURT OF
CANADA, BEGINNING
MONDAY, APRIL 10, 2000

APPELS INSCRITS POUR
AUDITION À LA SESSION DE LA
COUR SUPRÊME DU CANADA
COMMENÇANT LE LUNDI
10 AVRIL 2000

Enclosed is the list of the appeals inscribed for hearing by the Supreme Court of Canada during the session which begins in Ottawa, on Monday, April 10, 2000.

Cases will not necessarily be heard in the order in which they have been entered on the list.

During this session which is expected to last until June 23, 2000, the Court will sit Monday through Friday, from 9:45 a.m. on.

Throughout the session, we will continue to provide whenever possible advance notice of judgments to be rendered and any changes made to the schedule of appeals to be heard.

If you would like to receive these communications electronically and as quickly as possible, you are encouraged to subscribe to our "Press Release" ListServ. The instructions for doing so are available on our Internet site at <http://www.scc-csc.gc.ca>, which also provides access to other information about the Court such as the Court's agenda, case dockets, Notices to the profession and its decisions.

Material supporting applications for leave to appeal and appeals can be examined at the Court.

Ci-joint le rôle des appels inscrits pour audition devant la Cour suprême du Canada durant la session qui commence le lundi 10 avril 2000 à Ottawa.

Les causes ne seront pas nécessairement entendues dans l'ordre dans lequel elles ont été inscrites sur le rôle.

Pendant cette session qui doit durer jusqu'au 23 juin 2000, la Cour siégera du lundi au vendredi, à partir de 9 h 45.

Nous essaierons dans la mesure du possible d'indiquer à l'avance la date des jugements de même que les changements apportés dans l'ordre des audiences.

Si vous désirez recevoir ces renseignements par moyen électronique, nous vous encourageons à souscrire à notre liste d'envoi pour les communiqués de presse. Vous pouvez retrouver les consignes pour vous y abonner sur notre site Internet à l'adresse suivante <http://www.scc-csc.gc.ca>. Vous y trouverez aussi des renseignements supplémentaires concernant la Cour, tels l'ordre du jour, les registres des dossiers, les avis aux avocats et l'accès aux jugements.

On peut consulter au greffe de la Cour, les documents à l'appui des demandes d'autorisation d'appel ou des appels.

ANNE ROLAND
REGISTRAR REGISTRAIRE

February 15, 2000

Le 15 février 2000

SUPREME COURT OF CANADA - COUR SUPRÊME DU CANADA

Session commencing Monday, April 10, 2000 ♦♦♦ Session commençant le lundi Le 10 avril 2000

File / Dossier	Style of Cause / Intitulé de la cause	Counsel / Procureur	Agent / Correspondant
1	26129 Minister of Justice v. Glen Sebastian Burns, et al. (B.C.) (Criminal) (By Leave)	S. David Frankel, Q.C., Attorney General of Canada Marlys A. Edwardh, Ruby & Edwardh Edward L. Greenspan, Q.C., Greenspan, Henein and White	Robert J. Frater, Attorney General of Canada Henry S. Brown, Q.C., Gowling, Strathy & Henderson
2	26943 Kevin Lathangue v. Her Majesty the Queen (B.C.) (Criminal) (By Leave)	D. Mayland McKimm, Mayland McKimm & Associates S. David Frankel, Q.C., Attorney General of Canada	Henry S. Brown, Q.C., Gowling, Strathy & Henderson Robert J. Frater, Attorney General of Canada
3	26898 Neil Grandmaison, et al. v. Her Majesty the Queen (B.C.) (Criminal) (By Leave)	Robert C. Claus, Green & Claus Michael J. Munro S. David Frankel, Q.C., Attorney General of Canada	Henry S. Brown, Q.C., Gowling, Strathy & Henderson Robert J. Frater, Attorney General of Canada
4	26899 Robert Jenkins, et al. v. Her Majesty the Queen (B.C.) (Criminal) (By Leave)	Sidney B. Simons, Simons McKenzie Law Corp. S. David Frankel, Q.C., Attorney General of Canada	Henry S. Brown, Q.C., Gowling, Strathy & Henderson Robert J. Frater, Attorney General of Canada
5	26904 Angela Araujo, et al. v. Her Majesty the Queen (B.C.) (Criminal) (By Leave)	Adrian F. Brooks David N. Lyon S. David Frankel, Q.C., Attorney General of Canada	Brian A. Crane, Q.C., Gowling, Strathy & Henderson Robert J. Frater, Attorney General of Canada

	File / Dossier	Style of Cause / Intitulé de la cause	Counsel / Procureur	Agent / Correspondant
6	26968	Jolene Irons v. Her Majesty the Queen (B.C.) (Criminal) (By Leave)	Sidney B. Simons, Simons McKenzie Law Corp. S. David Frankel, Q.C., Attorney General of Canada	Brian A. Crane, Q.C., Gowling, Strathy & Henderson Robert J. Frater, Attorney General of Canada
7	27277	Bradley Sawyer v. Her Majesty the Queen (Ont.) (Criminal) (As of Right)	Shayne G. Kert, Buhr & Kert Renee M. Pomerance, Attorney General for Ontario	Leonard M. Shore, Q.C., Shore, Davis Robert E. Houston, Q.C., Burke-Robertson
8	27213	Patrick Charlebois c. Sa Majesté la Reine (Qué.) (Criminelle) (De plein droit)	Michel Pennou Stella Gabbino, Procureur général du Québec	Richard Gaudreau, Bergeron, Gaudreau Sylvie Roussel, Noël & Associés
9	26918	A.R.B. v. Her Majesty the Queen (Ont.) (Criminal) (As of Right / By Leave)	Robert J. Reynolds, Reynolds O'Brien Kline & Selick Sandy Tse, Attorney General for Ontario - Crown Law Office - Criminal	Jeffrey Beedell, Lang Michener Robert E. Houston, Q.C., Burke-Robertson
10	27050	Sa Majesté la Reine c. Marie-Suzanne Caouette (Qué.) (Criminelle) (Autorisation)	Jacques Casgrain, Procureur général du Québec Nathalie Caron	Sylvie Roussel, Noël & Associés Richard Gaudreau, Bergeron, Gaudreau
11	27006	Pacific National Investments Ltd. v. The Corporation of the City of Victoria (B.C.) (Civil) (By Leave)	L. John Alexander, Cox, Taylor Guy E. McDannold, Staples McDannold Stewart	Henry S. Brown, Q.C., Gowling, Strathy & Henderson Eugene Meehan, Lang Michener

File / Dossier	Style of Cause / Intitulé de la cause	Counsel / Procureur	Agent / Correspondant
12 26930	Her Majesty the Queen v. Marijana Ruzic (Ont.) (Criminal) (By Leave)	Croft Michaelson, Attorney General of Canada Frank Addario, Sack Goldblatt Mitchell	Robert J. Frater, Attorney General of Canada Heather Perkins-McVey, Smith, Lyons
13 27238	Warren Laverne Knoblauch v. Her Majesty the Queen (Alta.) (Criminal) (By Leave)	Mona T. Duckett, Royal, McCrum, Duckett & Glancy Arnold Schlayer, Attorney General of Alberta	Henry S. Brown, Q.C., Gowling, Strathy & Henderson Henry S. Brown, Q.C., Gowling, Strathy & Henderson
14 26980	Robert William Latimer v. Her Majesty the Queen (Sask.) (Criminal) (By Leave)	Edward L. Greenspan, Q.C., Greenspan, Henein and White Kenneth W. Mackay, Q.C., Attorney General for Saskatchewan	Leonard M. Shore, Q.C., Shore, Davis, Kehler Henry S. Brown, Q.C., Gowling, Strathy & Henderson
15 27004	M. le juge Richard Therrien, J.C.Q. c. Ministre de la Justice, et al. (Qué.) (Civile) (Autorisation)	Jean-Claude Hébert, Hébert & Bourque Benoit Belleau, Bernard, Roy & Associés Robert Mongeon, Goodman Phillips & Vineberg	Richard Gaudreau, Bergeron, Gaudreau Sylvie Roussel, Noël & Associés
16 27207	Adele Rosemary Breese (nee Gruenke) v. Her Majesty the Queen (Manitoba), et al. (Man.) (Criminal) (By Leave)	Terence C. Semenuk, Singleton Urquhart Scott David G. Frayer, Q.C., Attorney General of Canada Richard A. Saull, Attorney General of Manitoba	Robert E. Houston, Q.C., Burke-Robertson Henry S. Brown, Q.C., Gowling, Strathy & Henderson Robert J. Frater, Attorney General of Canada
17 27161	Arthur David Gabriel, et al. v. Her Majesty the Queen, et al. (Man.) (Criminal) (By Leave)	Paul E. Kammerloch, Pullan, Guld, Kammerloch Gregg Lawlor, Attorney General of Manitoba	Henry S. Brown, Q.C., Gowling, Strathy & Henderson Henry S. Brown, Q.C., Gowling, Strathy & Henderson

DEADLINES: APPEALS

DÉLAIS: APPELS

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

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

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:

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.

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

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.

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'appellant.

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.

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.

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

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

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

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

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.

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.

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Shell Canada Ltée *c.* Canada, [1999] 3 R.C.S. 622

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65302 British Columbia Ltd. v. Canada, [1999] 3 S.C.R. 804

Apotex Inc. v. Bayer Aktiengesellschaft, [1999] 3 S.C.R. 857

Arsenault-Cameron v. Prince Edward Island, [1999] 3 S.C.R. 851

British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights), [1999] 3 S.C.R. 868

Public School Boards' Assn. of Alberta v. Alberta (Attorney General), [1999] 3 S.C.R. 845

R. v. Davis, [1999] 3 S.C.R. 759

R. v. Pelletier, [1999] 3 S.C.R. 863

R. v. Terceira, [1999] 3 S.C.R. 866

Renaud v. Quebec (Commission des affaires sociales), [1999] 3 S.C.R. 855

Jugements publiés dans [1999] 3 R.C.S. Partie 5

65302 British Columbia Ltd. c. Canada, [1999] 3 R.C.S. 804

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Public School Boards' Assn. of Alberta c. Alberta (Procureur général), [1999] 3 R.C.S. 845

R. c. Davis, [1999] 3 R.C.S. 759

R. c. Pelletier, [1999] 3 R.C.S. 863

R. c. Terceira, [1999] 3 R.C.S. 866

Renaud c. Québec (Commission des affaires sociales), [1999] 3 R.C.S. 855

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 1999 -

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

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

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

- 2000 -

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

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

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

MAY - MAI						
S D	M L	T M	W M	T J	F V	S S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	M 15	16	17	18	19	20
21	H 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
11	M 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:

M
H

18 sitting weeks / semaines séances de la cour
77 sitting days / journées séances de la cour
9 motion and conference days / journées requêtes, conférences
4 holidays during sitting / jours fériés durant les sessions