

**SUPREME COURT
OF CANADA**



**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

This Bulletin is published at the direction of the Registrar and is for general information only. It is not to be used as evidence of its content, which, if required, should be proved by Certificate of the Registrar under the Seal of the Court. While every effort is made to ensure accuracy, no responsibility is assumed for errors or omissions.

Ce Bulletin, publié sous l'autorité du registraire, ne vise qu'à fournir des renseignements d'ordre général. Il ne peut servir de preuve de son contenu. Celle-ci s'établit par un certificat du registraire donné sous le sceau de la Cour. Rien n'est négligé pour assurer l'exactitude du contenu, mais la Cour décline toute responsabilité pour les erreurs ou omissions.

Subscriptions may be had at \$200 per year, payable in advance, in accordance with the Court tariff. During Court sessions it is usually issued weekly.

Le prix de l'abonnement, fixé dans le tarif de la Cour, est de 200 \$ l'an, payable d'avance. Le Bulletin paraît en principe toutes les semaines pendant les sessions de la Cour.

The Bulletin, being a factual report of recorded proceedings, is produced in the language of record. Where a judgment has been rendered, requests for copies should be made to the Registrar, with a remittance of \$10 for each set of reasons. All remittances should be made payable to the Receiver General for Canada.

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.

CONTENTS**TABLE DES MATIÈRES**

Applications for leave to appeal filed	2241 - 2242	Demandes d'autorisation d'appel déposées
Applications for leave submitted to Court since last issue	2243 - 2250	Demandes soumises à la Cour depuis la dernière parution
Oral hearing ordered	-	Audience ordonnée
Oral hearing on applications for leave	-	Audience sur les demandes d'autorisation
Judgments on applications for leave	2251 - 2255	Jugements rendus sur les demandes d'autorisation
Judgment on motion	-	Jugement sur requête
Motions	2256 - 2261	Requêtes
Notices of appeal filed since last issue	2262	Avis d'appel déposés depuis la dernière parution
Notices of intervention filed since last issue	-	Avis d'intervention déposés depuis la dernière parution
Notices of discontinuance filed since last issue	-	Avis de désistement déposés depuis la dernière parution
Appeals heard since last issue and disposition	2263 - 2269	Appels entendus depuis la dernière parution et résultat
Pronouncements of appeals reserved	-	Jugements rendus sur les appels en délibéré
Rehearing	-	Nouvelle audition
Headnotes of recent judgments	-	Sommaires des arrêts récents
Agenda	-	Calendrier
Summaries of the cases	-	Résumés des affaires
Appeals inscribed - Session beginning	-	Appels inscrits - Session commençant le
Notices to the Profession and Press Release	-	Avis aux avocats et communiqué de presse
Deadlines: Motions before the Court	2270	Délais: Requêtes devant la Cour
Deadlines: Appeals	2271	Délais: Appels
Judgments reported in S.C.R.	-	Jugements publiés au R.C.S.

**APPLICATIONS FOR LEAVE TO
APPEAL FILED**

Ken Cunningham, et al.
Ken Cunningham

v. (28682)

728920 Ontario Ltd., et al. (Ont.)
Lawrence GoldApple
Schwartz & Schwartz

FILING DATE 18.5.2001

Hershey Canada Inc.
Willaim J. Hayter
Heenan Blaikie

v. (28892)

**Glenn Rathwell on his own behalf and on behalf of
all other members and former members of the
Retail Wholesale/Canada Canadian Services
Sector Division of the United Steel Workers of
America, Local 416, Unit 1 (Ont.)**

Judith L. Allen
Raven, Allen, Cameron & Ballantyne

FILING DATE 6.11.2001

Brian S. Heron
Brian Heron

v. (28808)

Charles A. Smith (N.S.)
John E. MacDonnell
Stewart McKelvey Stirling Scales

FILING DATE 21.11.2001

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

Daniel Asante-Mensah
Michael W. Lacy
Kelly, Jennings & Lacy

v. (28867)

Her Majesty the Queen (Ont.)
Scott Hutchison
A.G. for Ontario

FILING DATE 30.11.2001

**Her Majesty the Queen in Right of Nova Scotia as
represented by Dr. Patricia Ripley, Deputy
Minister of the Priorities and Planning
Secretariat**

Louise Walsh Poirier
A.G. of Nova Scotia

v. (28886)

Daniel O'Connor (N.S.)
Graham Steele

FILING DATE 3.12.2001

Ville de Trois-Rivières
Jean Lamy

c. (28875)

**Société en commandite Les Verrières de
Francheville Enr. (Qué.)**
Roger Pothier
Pothier Delisle

DATE DE PRODUCTION 4.12.2001

Ville de Trois-Rivières
Jean Lamy

c. (28879)

2429-8952 Québec Inc., (Qué.)
Roger Pothier
Pothier Delisle

DATE DE PRODUCTION 4.12.2001

Le procureur général du Québec

Daniel Grégoire
Ministère de la Justice du Québec

FILING DATE 20.11.2001

c. (28923)

Lameque Quality Group Ltd.

John P. Barry, Q.C.
Barry Spalding Richard

R.C. (Qué.)

Pierre Gagnon
Fradette, Gagnon, Têtu, Le Bel, Ste-Marie

v. (28929)

DATE DE PRODUCTION 25.10.2001

A/S Nyborg Plast (N.B.)

David T. Hashey, Q.C.
Cox Hanson O'Reilly Matheson

Richard Guérard

Richard Guérard

FILING DATE 23.11.2001

c. (28868)

Hôpital Louis-H. Lafontaine (Qué.)

Élizabeth Camiré
Heenan Blaikie

DATE DE PRODUCTION 26.10.2001

Dr. David R. Puentes

James A. Hodgson
Hodgson Tough Shields DesBrisay
O'Donnell

v. (28934)

**Louis McNichol, deceased by his Estate Trustee,
Barbara McNichol, et al. (Ont.)**

David B. Williams
Harrison, Pensa

FILING DATE 20.11.2001

Toronto Catholic District School Board

Martin Scisizzi
Borden Ladner Gervais

v. (28935)

**Ontario English Catholic Teachers' Association
(Toronto Elementary Unit) (Ont.)**

Bernard A. Hanson
Cavalluzzo Hayes Shilton McIntyre &
Cornish

DECEMBER 10, 2001 / LE 10 DÉCEMBRE 2001

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

Glenda Doucet-Boudreau, Alice Boudreau, Jocelyn Bourbeau, Bernadette Cormier-Marchand, Yolande Levert and Cyrille Leblanc, in their name and in the name of all Nova Scotia parents who are entitled to the right, under Section 23 of the *Canadian Charter of Rights and Freedoms*, to have their children educated in the language of the minority, namely the French language, in publicly funded French language school facilities and La fédération des parents Acadiens de la Nouvelle-Écosse Inc.

v. (28807)

Attorney General of Nova Scotia (N.S.)

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Procedural law - Jurisdiction - *Functus officio* - Judge ordering a series of mandatory injunctions pursuant to s. 24(1) requiring school board and Ministry to use “best efforts” to complete five homogenous French schools by September 2000 in order to prevent further assimilation of French speaking children - Order further requiring parties to appear before same judge periodically to report on progress of construction and to ensure compliance with the order - Whether judge lost jurisdiction to adopt supervisory function - Scope of remedial power under s. 24(1) of the *Charter*

PROCEDURAL HISTORY

June 15, 2000
Supreme Court of Nova Scotia
(Leblanc J.)

Remedies for breach of Applicants’ s. 24(1) rights ordered;
Order that judge would maintain jurisdiction to ensure
compliance by Respondent

June 26, 2001
Nova Scotia Court of Appeal
(Freeman [*dissenting*], Chipman and Flinn JJ.A.)

Appeal allowed of the order retaining the jurisdiction of
the trial judge

September 17, 2001
Supreme Court of Canada

Application for leave to appeal filed

Maryse Dupéré

c. (28676)

La Procureure générale du Canada

ET ENTRE :

France Bélanger

c.

La Procureure générale du Canada (C.F.)

NATURE DE LA CAUSE

Procédure — Tribunaux — Révision judiciaire — Demandes de prestations de congé de maternité — Période de base du calcul du taux de prestations, *Loi sur l'assurance emploi*, L.C. 1996, ch. 23, art. 14 et *Règlement sur l'assurance-emploi*, DORS/96-332, par. 14(7) — La Cour d'appel a-t-elle erré en retenant une interprétation du par. 14(7) du *Règlement* qui est contraire à l'interprétation de la Commission de l'assurance-emploi du Canada? — L'interprétation stricte de la Cour d'appel contrevient-elle aux règles d'interprétation larges et libérales de nombreuses fois réitérées en matière d'interprétation de la *Loi sur l'assurance chômage*? — Dans le cadre de l'exercice de son pouvoir de contrôle judiciaire, la Cour d'appel peut-elle soulever de son propre chef une nouvelle interprétation des règles de droit en litige contraire à l'interprétation des parties quant aux exigences du par. 14(7) du *Règlement* afin d'appuyer la position de la défenderesse quant à l'interprétation de la notion de dernier arrêt de rémunération au sens de l'art. 14 de la *Loi* aux fins du calcul des prestations?

HISTORIQUE PROCÉDURAL

Le 22 mars 2001
Cour d'appel fédérale
(Décary, Létourneau et Noël, jj.c.a.)

Requête de la demanderesse Maryse Dupéré en révision judiciaire de la décision du juge-arbitre accueillie ; décision du juge-arbitre annulée

Le 23 mars 2001
Cour d'appel fédérale
(Décary, Létourneau et Noël, jj.c.a.)

Requête de la demanderesse France Bélanger en révision judiciaire de la décision du juge-arbitre accueillie ; décision du juge-arbitre annulée

Le 28 juin 2001
Cour suprême du Canada

Demandes d'autorisation d'appel et de prorogation de délai déposées

James Blair Down, Trevor Graham Street and Fraser Barkley Barnes including those listed in Schedule A

v. (28496)

Interclaim Holdings Limited and The Co-Petitioners listed in Schedule B (B.C.)

NATURE OF THE CASE

Commercial law - Torts - Procedural law - Bankruptcy - Champerty - Applicants' lottery ticket scheme resulting in many non-resident victims - Victims assigning Respondent firm the right to conduct action against Applicants for a portion of the funds collected - Whether rule against champerty applies - If so, does rule apply: (a) only if the claims fall outside the historical concept of "common counts in debt" or (b) if agreements amount to assignment of a bare cause of action;

Whether rule contravened by agreements in this case - Appropriate response to emergence of sophisticated entrepreneurial litigation companies - Whether acceptable for quasi-criminal statute like the *Bankruptcy and Insolvency Act* to be used as a legal platform for such business - Whether non-residents have sufficient connection to jurisdiction.

PROCEDURAL HISTORY

August 4, 1999 Supreme Court of British Columbia (Brenner C.J.)	Applicants' application to have petition dismissed granted
September 17, 1999 British Columbia Court of Appeal Newbury J.A. (In Chambers)	Arguable appeal demonstrated and <i>ex parte</i> orders restored
July 28, 2000 British Columbia Supreme Court Brenner C.J.	Interim <i>ex parte</i> receiving order and all orders derivative of it set aside
August 11, 2000 British Columbia Court of Appeal (Newbury, Low and Proudfoot JJ.A.)	Stay imposed by McEachern C.J. terminated
November 17, 2000 British Columbia Court of Appeal (Southin, Braidwood and Saunders JJ.A.)	Appeal from dismissal of petition in August 1999 and of order of July 2000 setting aside <i>ex parte</i> orders; appeal of July 2000 order dismissed; decision on issue of Champerty reserved
January 31, 2001 Court of Appeal for British Columbia (Southin, Braidwood and Saunders JJ.A.)	Appeal of decision to dismiss petition allowed; matter remitted to lower court
March 3, 2001 British Columbia Court of Appeal (Supplementary Reasons) (Southin, Braidwood and Saunders JJ.A.)	Application to re-open appeal dismissed
April 2, 2001 Supreme Court of Canada	Application for leave to appeal filed

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

Clinton Junior Gayle

v. (28699)

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

NATURE OF THE CASE

Canadian *Charter* - Criminal - Criminal law - Jury selection - Challenge for cause - Racial bias - Procedure - Jurisdiction - Peremptory challenges - Whether the trial judge was justified in restricting the proposed questions for challenge for cause - Whether the trial judge was empowered by s. 640(4) of the *Criminal Code* to excuse a potential juror after the triers had failed to agree on his impartiality - Whether the rights of the accused under ss. 7, 11(b) and 15 of the *Charter* were infringed by the Crown's exercise of peremptory challenges.

PROCEDURAL HISTORY

January 11, 1996
Ontario Court (General Division)
(Watt J.)

Applicant convicted of first degree murder and attempted murder contrary to ss. 231(4)(a) and 239 of the *Criminal Code*

April 27, 2001
Court of Appeal for Ontario
(Osborne A.C.J.O., Doherty and Sharpe JJ.A.)

Appeal against conviction dismissed

July 26, 2001
Supreme Court of Canada

Application for leave to appeal filed

Denis Bienvenue

c. (28768)

Sa Majesté la Reine (Crim.)(Qué.)

NATURE DE LA CAUSE

Droit criminel - Législation - Interprétation - Pouvoir de main-forte - Le pouvoir d'immobiliser un moyen de transport, conféré uniquement aux agents désignés en vertu de l'al.99(1)(f) de la *Loi sur les douanes*, fait-il implicitement partie du pouvoir de main-forte prévu à l'art.104 malgré l'omission du législateur d'en faire expressément mention? - Présument de l'existence au Canada d'une règle de droit permettant la détention provisoire d'une personne pour fin d'enquête criminelle, ce pouvoir peut-il être exercé par tout agent de la paix lors d'une enquête en matière réglementaire? - Dans l'affirmative, quelle est la norme juridique régissant l'exercice d'un tel pouvoir? - Une cour d'appel intermédiaire, jugeant bien fondé le motif de droit pour lequel l'autorisation d'interjeter appel fut accordée en vertu de l'art.839 *C.cr.*, peut-elle néanmoins rejeter le pourvoi lorsque la déclaration de culpabilité rendue au procès lui semble justifiée pour des motifs autres qu'un motif de droit?

HISTORIQUE PROCÉDURAL

Le 14 septembre 1998 Cour du Québec (Beauchemin j.c.q.)	Demandeur déclaré coupable d'avoir introduit illégalement des boissons alcoolisées au Canada contrairement à 160a) de la <i>Loi sur les douanes</i>
Le 1 mars 1999 Cour supérieure du Québec (Mireault j.c.s.)	Appel rejeté
Le 29 mai 2001 Cour d'appel du Québec (Fish, Robert et Thibault jj.c.a.)	Appel rejeté
Le 28 août 2001 Cour suprême du Canada	Demande d'autorisation d'appel déposée

Mario Guerriero and Salvatore Guerriero

v. (28560)

Commission de protection du territoire agricole du Québec (Que.)

NATURE OF THE CASE

Administrative law - Judicial review - Whether the Respondent used its discretion and its power to issue administrative orders for purposes foreign to *An Act Respecting the Preservation of Agricultural Land and Agricultural Activities* (the "Act") - Whether the Respondent breached its statutory duties under the Act - Whether the Act creates a legal regime analogous to private law trusts in which the Applicants are the beneficiaries and the Respondent Commission is the trustee - Whether the proper administration of justice and the Applicants' proprietary rights have suffered harm through the Respondent's breach of trust - Whether the words and conduct of Durand J. unjustifiably infringed the Applicants' constitutional rights under ss. 15(1) and 11(d) of the *Canadian Charter of Rights and Freedoms*, and s. 23 of the *Quebec Charter of Human Rights and Freedoms* - Whether, having complied with the order of Durand J., and demolished the building as ordered on May 31, 2001, the Applicants are now entitled to a remedy in equity.

PROCEDURAL HISTORY

June 27, 2000 Superior Court of Quebec (Laberge J.)	Applicants' motion to dismiss Respondent's action dismissed; Applicants' motion for judicial review dismissed
January 25, 2001 Superior Court of Quebec (Durand J.)	Respondent's motion for order of demolition granted
April 23, 2001 Court of Appeal of Quebec (Baudouin, Rousseau-Houle and Robert JJ.A.)	Respondent's motion to dismiss the appeal granted
May 24, 2001	Supreme Court of Canada

(Major J.)	Application for stay of proceedings dismissed
June 22, 2001 Supreme Court of Canada	Application for leave to appeal filed

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

Her Majesty the Queen

v. (28669)

Terry Robert Shepherd (Crim.)(Ont.)

NATURE OF THE CASE

Criminal Law (non Charter) - Jury Charge - Defence - Evidence - Charge of causing death of infant by violent shaking - Crown introduces evidence of previous incident of shaking - Court of Appeal orders new trial based on finding that trial judge failed to adequately direct jury on the relevance of evidence to the issue of intent - Whether trial judge failed to properly relate evidence of previous incident of shaking to issue of intent - Whether trial judge was required to raise exculpatory theory not relied upon by defence - Whether Court of Appeal has imposed requirement to present all possible exculpatory theories in jury charges.

PROCEDURAL HISTORY

April 26, 1996 Ontario Court (General Division) (Glithero J.)	Conviction by jury of first degree murder
April 23, 2001 Court of Appeal for Ontario (Rosenberg, Moldaver JJ.A. and Simmons J.[<i>ad hoc</i>])	Appeal against conviction allowed; new trial ordered
June 21, 2001 Supreme Court of Canada	Application for leave to appeal filed

**Hassan Barnieh, Barnieh Investments Ltd., DLN Holdings Ltd., Delina Holdings Ltd., 276171 Alberta Ltd.,
285917 Alberta Ltd., 306766 Alberta Ltd. and 319071 Alberta Ltd.**

v. (28759)

Northland Bank and Deloitte & Touche Inc. as Liquidator of Northland Bank (Alta.)

NATURE OF THE CASE

Property law - Commercial law - Trusts and trustees - Banks/banking operations - Fraud - Constructive trust - Whether a party can be fixed with the obligations of a constructive trust in circumstances where, at the time of dealing, the existence of a breach of a trust has not been established - Whether a party who deals with a chartered bank and acquired assets at favourable values be deemed to have knowledge that the Bank was insolvent and that any assets acquired were trust assets - When the Bank is represented by independent legal counsel in connection with the sale of assets is the purchaser obliged to inquire into the financial conditions of the bank, even if the asset transactions seem favourable to the purchaser.

PROCEDURAL HISTORY

August 31, 1999
Court of Queen's Bench of Alberta
(Wilkins J.)

Applicants found to be constructive trustees; Applicants ordered to restore property to the Defendants

May 17, 2001
Court of Appeal of Alberta
(Fraser C.J.A., Hunt and Costigan JJ.A.)

Appeal dismissed; Cross-appeal allowed in part

August 30, 2001
Supreme Court of Canada

Application for leave to appeal filed

Charlie Pinteric

v. (28504)

**People's Bar and Eatery Limited, Ermioni Chialtas also known as Mary Chialtas and Jim Chialtas also known
as Jimmy Chialtas (Ont.)**

NATURE OF THE CASE

Commercial Law - Contracts - Partnership - Judgment at trial that there had been a breach of an agreement to form a partnership - Judgment on appeal that one of the respondents was not liable for that breach - Whether respondent liable.

PROCEDURAL HISTORY

April 19, 1999
Superior Court of Ontario
(Dunnet J.)

Applicant awarded damages

February 9, 2001
Court of Appeal for Ontario

Appeal by Mary Chialtis allowed; Appeals by other respondents dismissed

(Catzman, Doherty and Simmons JJ.A.)

April 10, 2001
Supreme Court of Canada

Application for leave to appeal filed

La demande d'autorisation d'appel est rejetée avec dépens en faveur des intimées Lévesque Beaubien Geoffrion Inc. et Pacific International Securities Inc.

NATURE OF THE CASE

Procedural Law – Civil procedure – Motion to declare a law firm ineligible to act as solicitors of record – Right to non-disclosure of confidential information – *Charter of Human Rights and Freedoms*, R.S.Q, c. C-12, s. 9 – Conflict of interest – *Code of Ethics of Advocates*, R.R.Q., 1981, c. B-1, r. 1, ss. 3.06.01, 3.06.04, 3.06.06, 3.06.07, 3.06.08, 3.06.09 and 3.06.10 – What weight is to be given by the Courts to the element of prejudice suffered by a client who is suddenly stopped from having access to his lawyer after a thirteen-year ongoing close working relationship on his file? – What are the appropriate steps to be taken when a lawyer ceases to act for one party, rents space from another firm and takes no further role in the litigation? – What is the legal test to remove a law firm of record for alleged conflict of interest where a demonstrable “Chinese wall” has been set up?

PROCEDURAL HISTORY

December 1, 2000
Superior Court of Quebec
(Bishop J.)

Motions by the Respondents, Lévesque Beaubien Geoffrion Inc. and Pacific International Securities Inc., to have Adessky Poulin removed as counsel for the Applicants granted

March 16, 2001
Court of Appeal of Quebec
(Rothman, Proulx and Pidgeon JJ.A.)

Appeal dismissed

May 15, 2001
Supreme Court of Canada

Application for leave to appeal filed

28648 **Reubens Henderson - v. - Her Majesty the Queen** (Ont.) (Criminal)

CORAM: Gonthier, Major and Binnie JJ.

The application for an 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

Canadian Charter of Rights and Freedoms - Criminal law - Criminal procedure - Jury trials - Application for trial by judge alone - Application for a change of venue - Jury instructions - Reasonable doubt - Sections 7, 11(d) and 24(1) of the *Canadian Charter of Rights and Freedoms* - Section 473 *Criminal Code*, R.S.C. 1985, c. C-46 - Whether the Court of Appeal erred in holding that the Applicant had failed to demonstrate that he could not receive a fair trial with an impartial jury? - Whether the charge to the jury erred in guiding the jury to take a two-step approach to their assessment of the evidence and the application of the burden of proof? - Whether charge to the jury contained an erroneous definition of reasonable doubt? - Whether the charge to the jury failed to provide an adequate limiting instruction with respect to the use of evidence of other discreditable conduct? - Whether the jury was effectively denied a read back of evidence by the manner in which the trial judge answered a request for a read back?

PROCEDURAL HISTORY

February 2, 1996

Ontario Court of Justice (General Division)

(Chilcott J.)	Applicant's application for change of venue or trial before judge alone on charge of second degree murder dismissed
February 14, 1996 Ontario Court of Justice (General Division) (Chilcott J.)	Applicant convicted by judge and jury of second degree murder
April 12, 2001 Court of Appeal for Ontario (Charron, Sharpe and Simmons JJ.A.)	Appeal against conviction dismissed
July 9, 2001 Supreme Court of Canada	Application for leave to appeal filed

28737 **Government of the Northwest Territories - v. - Public Service Alliance of Canada and Canadian Human Rights Commission** (FC) (Civil)

CORAM: Gonthier, Major and Binnie JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Administrative law - Administrative Tribunals - Institutional independence - Reasonable apprehension of bias - Circumstances which deprive administrative tribunal of appearance of institutional independence - Whether binding guidelines issued under s. 27(2) of the *Canadian Human Rights Act* compromise the independence and impartiality of the tribunal hearing the human rights complaint - Whether power to issue guidelines is compatible with the standards of institutional independence and freedom from institutional bias required by the *Constitution Act 1867*, the *Bill of Rights* and common law - Whether Tribunal forms part the federal executive

PROCEDURAL HISTORY

December 4, 1998 Canadian Human Rights Tribunal (Groarke, Th��berge and Hadjis, Members)	Applicant's motion for ruling that Respondent Canadian Human Rights Commission is incapable of providing a fair hearing dismissed
December 15, 1999 Federal Court of Canada, Trial Division (Dub�� J.)	Applicant's application for judicial review dismissed; Respondent CHRC's application for order denying Applicant's standing in judicial review proceedings allowed
May 24, 2001 Federal Court of Appeal (Stone, L��tourneau and Rothstein JJ.A.)	Appeal allowed; order set aside; application for judicial review dismissed
August 20, 2001 Supreme Court of Canada	Application for leave to appeal filed

28743 **Bell Canada - v. - Canadian Telephone Employees Association, Communications, Energy and Paperworkers Union of Canada, Femmes Action and Canadian Human Rights Commission** (FC)
(Civil)

CORAM: Gonthier, Major and Binnie JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Administrative law - Judicial review - Administrative tribunals - Institutional independence - Reasonable apprehension of bias - Circumstances which deprive administrative tribunal of appearance of institutional independence - Whether Canadian Human Rights Tribunal has the requisite institutional independence and freedom from institutional bias despite being bound to interpret the *Canadian Human Rights Act* in accordance with guidelines issued by the Canadian Human Rights Commission - Whether Tribunal members have security of tenure necessary to ensure an independent and impartial tribunal - Whether Tribunal forms part of federal executive

PROCEDURAL HISTORY

April 26, 1999
Canadian Human Rights Tribunal
(Sinclair, Chair)

Decision by Tribunal that it is institutionally impartial and independent; Respondents' complaints against Applicant should proceed

November 2, 2000
Federal Court of Canada, Trial Division
(Tremblay-Lamer J.)

Applicant's application for judicial review granted:
Tribunal decision quashed

May 24, 2001
Federal Court of Appeal
(Stone, Létourneau and Rothstein JJ.A.)

Appeal allowed: application for judicial review dismissed

August 20, 2001
Supreme Court of Canada

Application for leave to appeal filed

28482 **John Susin - v. - Bono General Construction Limited, Carmelo Bono, Anne Bono and Salvatore (Sam) Bono** (Ont.) (Civil)

CORAM: Gonthier, Major and Binnie JJ.

The application for an extension of time is granted and the application for leave to appeal is dismissed without costs.

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

NATURE OF THE CASE

Procedural law - Rules of Civil Procedure - Security for costs - Appellate court confirming lower court decisions granting the dismissal of the Applicant's actions and dismissing a counterclaim and striking a statement of defence of the Applicant in another action for failure to pay security for costs - Alleged impecuniosity - Whether stays issued pursuant to a judge's order, and under Rules 11.01 and 63.01(1) of the *Rules of Civil Procedure*, are effective to prevent the commencement and continuation of collateral proceedings against plaintiff litigants - Whether the motions judge had lacked jurisdiction to enforce the payment of costs in these circumstances.

PROCEDURAL HISTORY

March 2, 2000
Superior Court of Justice
(Crane J.)

Motion to dismiss Applicant's actions and counterclaim against Respondents and striking Applicant's Statement of Defence, granted

March 16, 2000
Superior Court of Justice
(Reilly J.)

Applicant's motion to set aside Order of Crane J. and for extension of time to pay costs, dismissed

October 31, 2000
Court of Appeal for Ontario
(Catzman, Abella and Sharpe JJ.A.)

Applicant's appeal dismissed

January 25, 2001
Court of Appeal for Ontario
(Catzman, Abella and Sharpe JJ.A.)

Applicant's motion for an order setting aside or varying the Court of Appeal decision dismissed; Applicant's motion for an order allowing the filing of fresh evidence dismissed

March 27, 2001
Supreme Court of Canada

Application for leave to appeal and for an extension of time filed

3.12.2001

Before / Devant: THE REGISTRAR

Miscellaneous motion

Autre requête

Michael Aristocrat

v. (28906)

Rima Aristocrat, et al. (Ont.)

GRANTED / ACCORDÉE The motion on behalf of Gowling Lafleur Henderson for an order removing them as solicitor of record for the respondents is granted.

3.12.2001

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai de signification et de dépôt de la réponse des intimés

Ontario Public Service Employees Union

v. (28849)

Her Majesty the Queen in Right of Ontario as represented by the Ministry of Community and Social Services, et al. (Ont.)

GRANTED / ACCORDÉE Time extended to November 23, 2001.

4.12.2001

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

Sa Majesté la Reine

c. (28198)

Daniel Larivière (Crim.)(Qué.)

GRANTED / ACCORDÉE Délai prorogé au 15 novembre 2001.

4.12.2001

Before / Devant: LEBEL J.

Motion to vary the judgment**Requête en rectification du dispositif de jugement**

Her Majesty the Queen in Right of the Province of
British Columbia

v. (27721)

Leanne Rumley, et al. (B.C.)

REFERRED / RÉFÉRÉE

UPON APPLICATION by the appellant for an order pursuant to Rule 50, to vary the judgment of this Court delivered on the 18th day of October 2001;

AND HAVING READ the material filed ;

IT IS HEREBY ORDERED THAT:

The appellant is directed to make a motion pursuant to Rule 51.

4.12.2001

Before / Devant: THE CHIEF JUSTICE

Motion to adjourn the hearing of the appeals**Requête pour ajourner l'audition des appels**

Hughes Communications Inc.

v. (28070)

Spar Aerospace Limited

and between

Satellite Transmissions Systems Inc.

v.

Spar Aerospace Limited

and between

Motient Corporation (formerly "American Mobile
Satellite Corporation")

v.

Spar Aerospace Limited

and between

Viacom Inc. (formerly "Westinghouse Electric
Corporation")

v.

Spar Aerospace Limited (Que.)

GRANTED / ACCORDÉE

UPON APPLICATION by the appellant Hughes Communications Inc., for an Order adjourning the hearing of these appeals to the Spring 2002 session;

AND HAVING READ the material filed ;

IT IS HEREBY ORDERED THAT:

The motion on behalf of the appellant Hughes Communications Inc., for an order adjourning the hearing of these appeals to the Spring 2002 session is granted.

5.12.2001

Before / Devant: LEBEL J.

Motion for leave to intervene

Requête en autorisation d'intervention

BY/PAR: Federation of Law Societies of
Canada

IN/DANS: Law Society of New Brunswick

v. (28639)

Michael A.A. Ryan (N.B.)

GRANTED / ACCORDÉE

UPON APPLICATION by the Federation of Law Societies of Canada for leave to intervene in the above appeal;

AND HAVING READ the material filed ;

IT IS HEREBY ORDERED THAT:

The motion for leave to intervene of the applicant Federation of Law Societies of Canada is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length.

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

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

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

6.12.2001

Before / Devant: LEBEL J.

Miscellaneous motion

Autre requête

Michael Burko, et al.

v. (28872)

Credit Valley Conservation Authority (Ont.)

DISMISSED / REJETÉE

On October 26, 2001, the applicants Michael and Kathleen Burko purported to file a document styled “notice of appeal”. In this document, the applicants state their intention to appeal from a judgment of the Court of Appeal for Ontario, rendered on October 9, 2001, quashing their appeal from an interlocutory judgment rendered by Justice Somers on April 23, 2001. The Registrar refused to accept this document as a notice of appeal as of right and suggested to the applicants that it be dealt with as if it were a notice of motion for leave to appeal.

The applicants challenged this decision, as they seem to think that the filing of their documents created what would amount to an appeal as of right. They have now filed a motion asking a judge of this Court to reverse the decision of the Registrar. Pursuant to s. 40 of the *Supreme Court Act*, R.S.C. 1985, ch. S-26, all appeals in civil matters require prior leave by this Court. No appeal as of right exists in such matters. The applicants must go through the leave process. The Registrar had no option but to refuse that their document be filed as a notice of appeal.

For these reasons, the motion is dismissed. Costs were not requested on the motion.

6.12.2001

Before / Devant: LEBEL J.

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

Requête en prorogation du délai de signification et de dépôt de la demande d'autorisation

Gordon D. MacDonald

v. (28918)

Eagle Resources Ltd. (Alta.)

GRANTED / ACCORDÉE Time extended to sixty (60) days after the decision of the Court of Appeal for Alberta on reconsideration.

7.12.2001

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the book of authorities of the intervener John Howard Society of Canada

Requête en prorogation du délai imparti pour signifier et déposer le recueil de jurisprudence et de doctrine de l'intervenante John Howard Society of Canada

Richard Sauvé, et al.

v. (27677)

Chief Electoral Officer of Canada, et al. (F.C.)

GRANTED / ACCORDÉE Time extended to November 18, 2001, *nunc pro tunc*.

7.12.2001

Before / Devant: LEBEL J.

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

Requête en prorogation du délai de signification et de dépôt de la demande d'autorisation

Hanna Greenbaum Engel, et al.

v. (28931)

David Friedman, et al. (Que.)

GRANTED IN PART / ACCORDÉE EN PARTIE Time extended to Thursday, December 20, 2001.

10.12.2001

Before /Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file
the response of the respondent Erber Enrico Ferretti**

**Requête en prorogation du délai de signification et de
dépôt de la réponse de l'intimé Erber Enrico Ferretti**

Her Majesty the Queen

v. (28881)

Jose Fernando Castro, et al. (Crim.)(B.C.)

GRANTED / ACCORDÉE Time extended to January 9, 2002.

**NOTICE OF APPEAL FILED SINCE
LAST ISSUE**

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

5.12.2001

La Caisse populaire Desjardins de Val-Brillant

c. (28483)

Métivier & Associés Inc. (Qué.)

7.12.2001

Les Éditions Chouette (1987) Inc. et autre

c. (28660)

Hélène Desputeaux (Qué.)

3.12.2001

Robert Rahn

v. (28933)

Her Majesty the Queen (Ont.)

(As of Right)

**APPEALS HEARD SINCE LAST ISSUE
AND DISPOSITION**

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

5.12.2001

CORAM: Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour and LeBel JJ.

Paul D'Aoust Construction Ltd., et al.

v. (27438)

**Markel Insurance Company of Canada, et al.
(Ont.) (Civil) (By Leave)**

DISMISSED WITH COSTS / REJETÉ AVEC DÉPENS

GONTHIER J (orally):

We are all of the view that the appeal should be dismissed for the reasons of the Court of Appeal of Ontario, with costs.

Nature of the case:

Commercial law - Suretyship - Performance bonds - Whether the Court of Appeal erred in holding that the physical delivery of an instrument to the obligee by the principal debtor is a condition precedent to the liability of the party who issued the instrument - Whether the Court of Appeal erred in holding that, where a party contractually agrees to complete a task, it cannot be deemed to act as an agent for all other material parties to the contract.

K. Scott McLean for the appellants.

Ronald W. Price for the respondent Markel Insurance Company.

Kenneth Radnoff, Q.C. for the respondent Kenneth Daku.

LE JUGE GONTHIER (oralement):

Nous sommes tous d'avis qu'il y a lieu de rejeter l'appel avec dépens, pour les raisons exposées par la Cour d'appel de l'Ontario.

Nature de la cause:

Droit commercial - Cautionnement - Garanties d'exécution - La Cour d'appel a-t-elle erré en concluant que la délivrance matérielle d'un acte par le débiteur principal à l'obligataire constitue une condition préalable à la responsabilité de la partie qui a émis l'acte? - La Cour d'appel a-t-elle erré en statuant que, lorsqu'une partie s'engage par contrat à accomplir une tâche, elle ne peut être réputée agir à titre de mandataire pour toutes les autres parties concernées au contrat?

10.12.2001

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

Richard Sauvé

v. (27677)

Chief Electoral Officer of Canada, et al.

and between

Sheldon McCorrister, et al.

v.

**The Attorney General of Canada
(F.C.) (Civil) (By Leave)**

Fergus J. O'Connor for the appellant Richard Sauvé.

Arne Peltz for the appellants Sheldon McCorrister, et al.

Allan Manson and Elizabeth Thomas for the interveners
Canadian Association of Elizabeth Fry Societies, et al.

Kent Roach and Brian Eyolfson for the intervener
Aboriginal Legal Services of Toronto.

Sylvain Lussier pour l'intervenante Association du
Barreau canadien.

John W. Conroy, Q.C. for the intervener B.C. Civil
Liberties.

David G. Frayer, Q.C. and Gérald L. Chartier for the
respondents.

Heather S. Leonoff, Q.C. for the intervener the Attorney
General of Manitoba.

Thomas W. Wakeling and Gerald D. Chipeur for the
intervener the Attorney General of Alberta.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Canadian Charter - Civil - Civil Rights - Right to vote - Prisoner voting - Federal Legislation prohibits inmates serving sentences of two years or more from voting in elections - Whether the Federal Legislation is saved by section 1 of the *Charter* as a reasonable limitation on the right to vote - Whether Federal Legislation meets minimal impairment and proportionality tests mandated by s. 1 of the *Charter* - Whether there is a rational connection between disenfranchising prisoners and enhancing the criminal sanction or promoting civic responsibility and respect for the rule of law - Whether the Federal Legislation is in breach of s. 15 of the *Charter* - *Canada Elections Act*, R.S.C., 1985, c. E-2, s. 51(e) as amended.

Nature de la cause:

Charte canadienne des droits - Matière civile - Droits civils - Droit de vote - Vote des prisonniers - Loi fédérale interdisant aux détenus purgeant une peine de deux ans et plus de voter aux élections - La loi fédérale est-elle validée par l'article premier de la *Charte* parce qu'elle constitue une limite raisonnable au droit de vote? - La loi fédérale satisfait-elle aux critères de l'atteinte minimale et de la proportionnalité applicables en vertu l'article premier de la *Charte*? - Existe-t-il un lien rationnel entre l'incapacité des prisonniers et l'objectif consistant à mettre en relief la sanction pénale ou à rehausser le sens du devoir civique et le respect de la primauté du droit? - La loi fédérale contrevient-elle à l'art. 15 de la *Charte*? - *Loi électorale du Canada*, L.R.C. (1985), ch. E-2, al. 51e), modifié.

11.12.2001

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

Norman Sterriah, et al.

v. (27762)

Her Majesty the Queen in Right of Canada, et al.
(Y.T.) (Civil) (By Leave)

Brian A. Crane, Q.C. and Ritu Gambhir for the appellants.

Leslie J. Pinder for the intervener Coalition of B.C. First Nations.

Brian R. Evernden and Jeffery A. Hutchinson for the respondent The Queen in Right of Canada.

Penelope Gawn and Lesley McCullough for the respondent Government of Yukon.

Richard J.M. Fyfe, Patrick G. Foy, Q.C. and Paul Yearwood for the intervener the Attorney General of British Columbia.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Native Law - Reserves - What are the legal requirements for the creation of an Indian reserve under the *Indian Act*? - Whether it is a legal requirement that there be an Order-in-Council to evidence the setting apart of lands by the Crown, in order for lands to be "set apart by Her Majesty for the use and benefit of a band" - Whether the Yukon Court of Appeal erred in fact and law in reversing the finding of the Chambers Judge that the Ross River Dena Village Site was a reserve under the *Indian Act*, R.S.C. 1985, c. I-6?

Nature de la cause:

Droit des Autochtones - Réserves - Quelles sont les conditions juridiques de la création d'une réserve indienne sous le régime de la *Loi sur les Indiens*? - L'existence d'un décret constatant la mise de côté de terres par la Couronne constitue-t-elle une condition juridique pour que Sa Majesté les ait mises « de côté à l'usage et au profit d'une bande »? - La Cour d'appel du Yukon a-t-elle commis une erreur de fait et de droit en infirmant la conclusion du juge siégeant en son cabinet selon laquelle le site du village Déna de Ross River constitue une réserve au sens de la *Loi sur les Indiens*, L.R.C. (1985), ch. I-6?

11.12.2001

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

Bank of America Canada

v. (27898)

Clarica Trust Company (Ont.) (Civil) (By Leave)

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Commercial Law - Procedural Law - Interest - Damages - Breach of contract - Statute - Interpretation - Availability of compound interest on damage awards - Whether the trial judge had jurisdiction to award compound interest - Whether the trial judge's exercise of discretion in awarding compound interest should be upheld.

Frank J.C. Newbould, Q.C., Benjamin T. Glustein and Aaron A. Blumenfeld for the appellant.

Earl A. Cherniak, Q.C. and Kirk F. Stevens for the respondent.

Nature de la cause:

Droit commercial - Droit procédural - Intérêt - Dommages-intérêts - Inexécution contractuelle - Lois - Interprétation - Des dommages-intérêts peuvent-ils être majorés d'intérêts composés? Le juge de première instance avait-il compétence pour accorder des intérêts composés? - Sa décision d'accorder des intérêts composés rendue à l'issue de l'exercice de son pouvoir discrétionnaire devrait-elle être confirmée?

12.12.2001

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

Brian J. Stewart

v. (27860)

Her Majesty the Queen (F.C.) (Civil) (By Leave)

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Statutes - Interpretation - Taxation - Whether the Tax Court of Canada and the Federal Court of Appeal erred in law in applying the "reasonable expectation of profit" test to disallow the deduction of losses of the Appellant arising from investments in real estate, thereby limiting the amount of interest expense that was otherwise deductible pursuant to s. 20(1)(c) of the *Income Tax Act*.

Richard B. Thomas and Lisa Wong for the appellant.

Richard Gobeil and Donald G. Gibson for the respondent.

Nature de la cause:

Lois - Interprétation - Fiscalité - La Cour canadienne de l'impôt et la Cour d'appel fédérale ont-elles commis une erreur de droit en appliquant le critère de l'« attente raisonnable de profit » pour refuser la déduction des pertes subies par l'appelant à la suite de ses placements dans l'immobilier, limitant ainsi le montant des frais d'intérêts autrement déductibles par application de l'al. 20(1)c) de la *Loi de l'impôt sur le revenu*.

12.12.2001

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

Her Majesty the Queen

Brent Paris and Richard Gobeil for the appellant.

v. (27724)

Jack Walls, et al. (F.C.) (Civil) (By Leave)

Craig C. Sturrock and Thomas M. Boddez for the respondents.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Nature de la cause:

Statutes - Interpretation - Taxation - Whether the trial judge misapplied the reasonable expectation of profit test laid down in *Moldowan v. The Queen*, [1978] 1 S.C.R. 480, for determining the source of income under the *Act* - Whether, in the absence of any overriding error by the trial judge, there was any basis for allowing the limited partners in the Partnership to deduct the losses as a business loss in computing their income from other sources under the *Act*.

Lois - Interprétation - Fiscalité - Le juge de première instance a-t-il mal interprété le critère de l'expectative raisonnable de profit établi dans l'arrêt *Moldowan c. La Reine*, [1978] 1 R.C.S. 480, pour déterminer la source d'un revenu en vertu de la *Loi*? - En l'absence d'erreur dirimante de la part du juge de première, existait-il un fondement sur lequel autoriser les commanditaires de la société de personnes à déduire les pertes comme pertes d'entreprise dans le calcul de leur revenu d'autres provenances en vertu de la *Loi*?

13.12.2001

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

Her Majesty the Queen

v. (27852)

Lavallee, Rackel and Heintz Barristers and Solicitors, et al. (Alta.) (Criminal) (By Leave)

- and between -

Her Majesty the Queen

v. (28385)

Jeffrey Fink (Ont.) (Criminal) (By Leave)

-and between -

White, Ottenheimer & Baker

v. (28144)

Attorney General of Canada (Nfld.) (Criminal) (By Leave)

Robert J. Frater, Peter DeFreitas and David Schembrucker for the appellant (in Lavallee) and for the respondent/appellant on cross-appeal (in White).

Michal Fairburn and Philip Downes for the appellant (in Fink).

Robert J. Frater, Peter DeFreitas and David Schembrucker for the intervener the Attorney General of Canada (written submission only).

Michal Fairburn and Philip Downes for the intervener the Attorney General for Ontario (written submission only).

Benoît Lauzon et Gilles Laporte pour l'intervenant le procureur général du Québec.

Eric Tolppanen for the intervener the Attorney General of Alberta.

D. Mark Pike and Geoffrey L. Spencer for the appellant/respondent on cross-appeal (in White).

David G. Butcher and Michael J. Hewitt for the respondents (in Lavallee).

Richard Macklin and Aaron Harnet for the respondent (in Fink).

Anne S. Derrick, Q.C., Joel Pink, Q.C. and Shane Parker for the intervener Federation of Law Societies of Canada.

Lindsay MacDonald, Q.C. for the intervener The Law Society of Alberta.

James L. Lebo, Q.C. for the intervener Canadian Bar Association.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

27852

Canadian Charter of Rights and Freedoms - Search and seizure - Criminal law - Solicitor and client privilege - Section 488.1 of *Criminal Code* providing procedure for securing privilege in documents seized from law office - Documents seized from law office - Whether s. 488.1 of the *Criminal Code* infringes s. 7 and/or s. 8 of the *Charter* - If so, is the infringement justified under s. 1 of the *Charter*?

28385

Canadian Charter of Rights and Freedoms - Criminal law - Unreasonable search and seizure - Solicitor and client privilege - Section 488.1 of *Criminal Code* providing procedure for securing privilege in documents seized from law office - Documents seized from law office - Whether s. 488.1 unconstitutional in that it allows or permits an unreasonable search and seizure contrary to s. 8 of the *Charter*.

28144

Canadian Charter of Rights and Freedoms - Criminal law - Search and seizure - Solicitor and client privilege - Section 488.1 of *Criminal Code* providing procedure for securing privilege in documents seized from law office - Documents seized from law office - Constitutionality of s. 488.1 - Whether constitutional validity of s. 488.1 of the *Criminal Code* can be upheld by severing offending portions and reading in replacement words.

Nature de la cause:

27852

Charte canadienne des droits et libertés - Perquisitions et saisies - Droit criminel - Secret professionnel de l'avocat - L'art. 488.1 du *Code criminel* établit une procédure garantissant le respect du privilège protégeant les documents saisis dans un cabinet d'avocats - Documents saisis dans un cabinet d'avocats - L'art. 488.1 du *Code criminel* porte-t-il atteinte à l'art. 7 ou à l'art. 8 de la *Charte*? - Le cas échéant, cette atteinte est-elle justifiée par l'art. premier de la *Charte*?

28385

Charte canadienne des droits et libertés - Droit criminel - Fouilles, perquisitions et saisies abusives - Privilège des communications entre client et avocat - L'art. 488.1 du *Code criminel* prévoit la procédure applicable pour assurer le respect du privilège des communications entre client et avocat en cas de saisie de documents dans un cabinet d'avocat - Documents saisis dans un cabinet d'avocat - L'art. 488.1 est-il inconstitutionnel parce qu'il permet des fouilles, perquisitions et saisies abusives contrairement à l'art. 8 de la *Charte*?

28144

Charte canadienne des droits et libertés - Droit criminel - Perquisitions et saisies - Secret professionnel de l'avocat - L'art. 488.1 du *Code criminel* établit une procédure garantissant le respect du privilège protégeant les documents saisis dans un cabinet d'avocats - Documents saisis dans un cabinet d'avocats - Constitutionnalité de l'art. 488.1 - La validité constitutionnelle de l'art. 488.1 du *Code criminel* peut-elle être préservée en séparant les dispositions attentatoires et en remplaçant implicitement certains termes.

DEADLINES: MOTIONS**DÉLAIS: REQUÊTES**

BEFORE THE COURT:

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

Motion day : **January 14, 2002**
Service : December 24, 2001
Filing : December 28, 2001
Respondent : January 4, 2002

Motion day : **February 11, 2002**
Service : January 21, 2002
Filing : January 25, 2002
Respondent : February 1, 2002

Motion day : **March 11, 2002**
Service : February 18, 2002
Filing : February 22, 2002
Respondent : March 1, 2002

DEVANT LA COUR:

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

Audience du : **14 janvier 2002**
Signification : 24 décembre 2001
Dépôt : 28 décembre 2001
Intimé : 4 janvier 2002

Audience du : **11 février 2002**
Signification : 21 janvier 2002
Dépôt : 25 janvier 2002
Intimé : 1 février 2002

Audience du : **11 mars 2002**
Signification : 18 février 2002
Dépôt : 22 février 2002
Intimé : 1 mars 2002

DEADLINES: APPEALS

DÉLAIS: APPELS

The Winter Session of the Supreme Court of Canada will commence January 14, 2002.

La session d'hiver de la Cour suprême du Canada commencera le 14 janvier 2002.

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'appelant, son mémoire et son recueil de jurisprudence et de doctrine doivent être déposés dans les quatre mois du dépôt 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 du mémoire de l'appelant.

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 du mémoire de l'intimé, sauf ordonnance contraire.

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.

Veuillez 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.

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 2001 -

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

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

- 2002 -

JANUARY - JANVIER						
S D	M L	T M	W M	T J	F V	S S
		H 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	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	M 11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28		

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	M 11	12	13	14	15	16
17	18	19	20	21	22	23
24 31	25	26	27	28	H 29	30

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

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

Sittings of the court:
Séances de la cour:

Motions:
Requêtes:

Holidays:
Jours fériés:



18 sitting weeks / semaines séances de la cour

79 sitting days / journées séances de la cour

9 motion and conference days / journées requêtes, conférences

2 holidays during sitting days / jours fériés durant les sessions