

**SUPREME COURT  
OF CANADA**



**COUR SUPRÊME  
DU CANADA**

**BULLETIN OF  
PROCEEDINGS**

**BULLETIN DES  
PROCÉDURES**

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Ravinsky Ryan

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Chantal Sauriol  
P.G. du Canada

DATE DE PRODUCTION 14.6.2002

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Merchant Law Group

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Karen Prisciak  
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FILING DATE 14.6.2002

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**Serge Larose**

Serge Larose

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**Sa Majesté la Reine (C.F.)**

Jade Boucher  
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DATE DE PRODUCTION 19.6.2002

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Jagir Singh

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**Canada Post Corporation (F.C.)**

Craig Munroe  
Farris, Vaughan, Wills & Murphy

FILING DATE 24.6.2002

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**The League for Human Rights of B'Nai Brith  
Canada**

Steven Slimovitch  
The League for Human Rights of B'Nai  
Brith Canada

v. (29252)

**Syndicat Northcrest (Que.)**

Pierre-G. Champagne  
de Grandpré Chaurette Lévesque

FILING DATE 27.6.2002

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Henri-Pierre Labrie  
P.G. du Québec

c. (29256)

**Pierre Lefebvre (Qué.)**

Alain Dubois  
Dubois, Gauthier & Associés

DATE DE PRODUCTION 28.6.2002

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**Melba Florine Manson, in Right of the Estate of  
Hugh A. Manson, deceased husband**  
Melba Florine Manson

v. (29259)

**Her Majesty the Queen as Represented by the  
Minister of National Revenue and Canada  
Customs and Revenue Agency (F.C.)**

Kerry Boyd  
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FILING DATE 18.6.2002

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**Brigitte Ouellet**

Brigitte Ouellet

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**Le Collège de Sainte-Anne-de-la-Pocatière (Qué.)**

Marie Boucher  
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DATE DE PRODUCTION 19.6.2002

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**Fern Tardif and International Brotherhood of  
Electrical Workers, Local 625**

Ronald A. Pink, Q.C.  
Pink Breen Larkin

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(N.S.)**

Brian G. Johnston, Q.C.  
Stewart McKelvey Stirling Scales

FILING DATE 20.6.2002

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**Giorgios Katsaros**

Nicholas J. Krnjevic  
Robinson Sheppard Shapiro

c. (29260)

**Ville de Mirabel (Qué.)**

Carl-Éric Therrien  
Deveau Lavoie & Associés

DATE DE PRODUCTION 21.6.2002

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**Peter Roderick MacLellan**

Dr. Peter MacLellan

v. (29262)

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Marguerite Kopaniak) (Ont.)**

Malcolm Kronby  
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FILING DATE 25.6.2002

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**Weimin Wu**

Weimin Wu

v. (29268)

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

Edward Burnet  
Department of Justice

FILING DATE 2.7.2002

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**Calvin Boyd Colby**

Anil K. Kapoor

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

W. Dean Sinclair  
A.G. of Saskatchewan

FILING DATE 24.6.2002

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**A.V.W.**

Sheilagh O'Connell  
Family Law Office, Legal Aid Ontario

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v. (29263)

**Catholic Children's Aid Society, et al. (Ont.)**

Helen Murphy

Catholic Children's Aid Society of  
Metropolitan Toronto

FILING DATE 21.6.2002

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**JULY 8, 2002 / LE 8 JUILLET 2002**

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

**Allan Harriott**

**v. (29118)**

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

**NATURE OF THE CASE**

Criminal law - Sentencing - Whether the Court of Appeal erred in upholding the sentence imposed by Locke J., as it was higher than the sentence imposed by the first trial judge, Wright J.? - Whether the Court of Appeal erred in concluding that the sentence imposed by the trial judge, Locke J. was not excessive in light of the sentence imposed upon the two other offenders involved in the crime? - Whether the Court of Appeal erred in dismissing the applicant's sentence appeal?

**PROCEDURAL HISTORY**

February 12, 1996  
Ontario Court of Justice (General Division)  
(Wright J.)

Applicant convicted of 2 counts robbery, 2 counts confinement, 1 count possession of a weapon and 1 count of having his face masked for the purpose of committing an indictable offence; sentenced to a total concurrent sentence of 4 years of imprisonment with a subsequent two year probation

July 30, 1997  
Court of Appeal for Ontario  
(Austin, Rosenberg and Moldaver JJ.A.)

Appeal from conviction allowed; new trial ordered

September 23, 1998  
Ontario Court of Justice  
(Locke J.)

Applicant convicted of 2 counts robbery, 2 counts confinement, 1 count possession of a weapon and 1 count of having his face masked for the purpose of committing an indictable offence; sentenced to 8 concurrent years of imprisonment

February 7, 2002  
Court of Appeal for Ontario  
(Doherty [*dissenting*], Charron and MacPherson JJ.A.)

Appeal against conviction dismissed. Leave to appeal sentence granted and appeal from sentence dismissed

April 17, 2002  
Supreme Court of Canada

Application for leave to appeal filed

**The Attorney General of Canada**

v. (29077)

**Karlheinz Schreiber and The Federal Republic of Germany (Ont.)**

**NATURE OF THE CASE**

Procedural law - Civil procedure - Concurrent and related proceedings - Extradition to face criminal charges and civil suit against the Crown - Whether the Court of Appeal applied the “extraordinary and exceptional circumstances” test in a mechanistic way - Whether the “exceptional and extraordinary circumstances” test applied by the courts below is completely inadequate - Whether the Court of Appeal failed to apply the test having regard to the extradition context.

**PROCEDURAL HISTORY**

May 24, 2000  
Ontario Superior Court of Justice  
(Nordheimer J.)

Applicant’s motion for stay of Respondent Schreiber’s action for damages for negligence and abuse of power pending extradition proceedings granted

December 10, 2001  
Court of Appeal for Ontario  
(Morden, Carthy and MacPherson JJ.A.)

Respondent Schreiber’s appeal allowed: motion for stay of proceedings against Applicant dismissed

February 8, 2002  
Supreme Court of Canada

Application for leave to appeal filed

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

**Keyvan Nourhaghighi**

v. (29085)

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

**NATURE OF THE CASE**

*Canadian Charter - Criminal* - Criminal Law - Whether fairness and impartiality is both subjectively and objectively demonstrated in the circumstances of this case - Whether ss.1, 7, 11(d), 12 or 14 *Charter* infringed - Threshold of the judiciary immunity when torts rise by judges - Whether refusing leave in the circumstances would perpetuate an injustice.

**PROCEDURAL HISTORY**

November 19, 1997  
Ontario Court (Provincial Division)  
(Lampkin J.)

Applicant convicted of assault contrary to section 813 (a)(i) of the *Criminal Code* and fined \$600

June 18, 1998

Appeal from conviction and sentence dismissed

Ontario Court of Justice  
(McRae J.)

December 17, 2001  
Court of Appeal for Ontario  
(McMurtry C.J., Rosenberg and MacPherson  
J.J.A.)

Appeal dismissed

February 15, 2002  
Supreme Court of Canada

Application for leave to appeal filed

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**Richard Doyle and Wilfred Doyle**

**v. (28994)**

**Theresa MacDonald, Brian Mullin, William MacDougall and Catherine MacDougall (P.E.I.)**

**NATURE OF THE CASE**

Property law - Real property - Boundary dispute - Location of boundary line - Metes and bounds description conflicting with occupation and use of property - Whether trial judge erred in finding that extrinsic evidence was required to determine boundary line dividing lands in question.

**PROCEDURAL HISTORY**

June 30, 1999  
Prince Edward Island Supreme Court, Trial Division  
(Webber J.)

Applicants' action dismissed

September 21, 2001  
Prince Edward Island Supreme Court  
Appeal Division  
(McQuaid, Campbell and Carruthers J.J.A.)

Appeal dismissed

November 20, 2001  
Supreme Court of Canada

Application for leave to appeal filed

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**CORAM: Bastarache, Binnie and LeBel JJ. /  
Les juges Bastarache, Binnie et LeBel**

**Mario Côté**

**c. (28604)**

**Sa Majesté la Reine (Crim.)(Qué.)**

**NATURE DE LA CAUSE**

Droit criminel - Directives au jury - Doute raisonnable - Défense - Alibi - Antécédents judiciaires - Infractions moindres et incluses - Les erreurs dans les directives du juge du procès portant sur la notion de doute raisonnable devraient-elles emporter l'annulation du verdict de culpabilité - Le juge de première instance a-t-il erré dans ses directives sur la défense d'alibi du demandeur - La Cour d'appel a-t-elle erré en appliquant la disposition réparatrice de l'art. 686(1)b)iii) du *Code criminel* eu égard à l'omission faite par le premier juge d'instruire le jury en regard de l'absence de liens à faire entre les antécédents judiciaires de l'accusé et sa culpabilité eu égard au crime dont il est accusé - Le verdict devrait-il être annulé en raison de l'omission du juge du procès de mentionner la possibilité d'un verdict d'homicide involontaire coupable?

**HISTORIQUE PROCÉDURAL**

Le 2 mai 1996  
Cour supérieure du Québec  
(Trotier j.c.s)

Demandeur déclaré coupable de meurtre au deuxième degré conformément à l'article 231(7) et 235 du *Code criminel*

Le 24 juillet 1998  
Cour d'appel du Québec  
(Beauregard, Brossard et Chamberland jj.c.a.)

Pourvoi du demandeur rejeté

Le 1er juin 2001  
Cour suprême du Canada  
(L'Heureux-Dubé j.)

Requête en prorogation du délai accordée

Le 23 novembre 2001  
Cour suprême du Canada  
(Iacobucci j.)

Requête en prorogation du délai accordée

Le 29 janvier 2002  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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**JULY 11, 2002 / LE 11 JUILLET 2002**

**29028**                    **George Sutherland v. Her Majesty the Queen** (Ont.)

Coram:                    McLachlin C.J. and Iacobucci and Arbour JJ.

The application for an extension of time is granted and the application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C31791, dated May 29, 2001, is dismissed.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C31791, daté du 29 mai 2001, est rejetée.

**NATURE OF THE CASE**

*Canadian Charter - Criminal* - Criminal Law (Non Charter) - Whether Court of Appeal erred with respect to decision not to order disclosure - Whether Court of Appeal erred with respect to evidence of the complainant's emotional state - Whether Court of Appeal erred with respect to applicant's heritage in determining whether an indeterminate sentence was appropriate - Whether Court of Appeal erred in holding that it would not consider the constitutionality of s. 761 of the *Criminal Code* - Whether Court of Appeal erred in failing to consider fresh evidence.

**PROCEDURAL HISTORY**

July 28, 1997 Ontario Court of Justice (Loukidelis J.)	Application for production of records dismissed
July 30, 1997 Ontario Court of Justice (Loukidelis J.)	Convictions for assault, sexual assault, uttering a death threat, extortion; Acquittal on count of wilful attempt to obstruct justice by threats
May 19, 1998 Ontario Court of Justice (Loukidelis J.)	Declared dangerous offender, indeterminate sentence imposed
May 29, 2001 Court of Appeal for Ontario (Finlayson, Labrosse and Laskin JJ.A.)	Appeal from conviction and sentence dismissed
January 15, 2002 Supreme Court of Canada	Applications for extension of time to apply for leave to appeal and for leave to appeal filed

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**29024**                    **Olympia Interiors Ltd., et al. v. Her Majesty the Queen** (F.C.)

Coram:                    McLachlin C.J. and Iacobucci and Arbour JJ.

The application for leave to appeal from the judgment of the Federal Court of Appeal, Number A-269-01, dated November 22, 2001, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel fédérale, numéro A-269-01, daté du 22 novembre 2001, est rejetée avec dépens.

**NATURE OF THE CASE**

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*Canadian Charter - Civil - Civil Procedure - Procedural Law - Application for declaration dismissed because commenced after statutory time limit - Whether public authorities should exercise a statutory discretion absolutely - The statutory correctness of Certificates - Sections 1, 7, 9, 12, 15 and 32(1) of the Charter and 2(a) of the Canadian Bill of Rights - Whether power to detain is lawful - Whether damages of irreparable harm were foreseeable - Whether Her Majesty The Queen may rely on statutory defence.*

**PROCEDURAL HISTORY**

October 27, 2000 Federal Court of Canada, Trial Division (Blais J.)	Application for a declaration that a certificate was without force and effect dismissed
November 22, 2001 Federal Court of Appeal (Stone, Evans and Malone JJ.A.)	Appeal dismissed
January 21, 2002 Supreme Court of Canada	Application for leave to appeal filed

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**29023**      **Olympia Interiors Ltd. and Mary David v. Her Majesty the Queen and The Attorney General of Canada** (F.C.)

Coram:      McLachlin C.J. and Iacobucci and Arbour JJ.

The application for leave to appeal from the judgment of the Federal Court of Appeal, Number A-682-00, dated November 22, 2001, is dismissed with costs to the respondents.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel fédérale, numéro A-682-00, daté du 22 novembre 2001, est rejetée avec dépens en faveur des intimés.

**NATURE OF THE CASE**

*Canadian Charter - Civil - Civil Rights - Procedural Law - Application for extension of time to appeal denied - Whether public authorities should exercise a statutory discretion absolutely - The statutory correctness of Certificates - Sections 1, 7, 9, 12, 15 and 32(1) of the Charter and 2(a) of the Canadian Bill of Rights - Whether power to detain is lawful - Whether damages of irreparable harm were foreseeable - Whether Her Majesty The Queen may rely on statutory defence.*

**PROCEDURAL HISTORY**

May 1, 1998 Federal Court of Canada, Trial Division (MacKay J.)	Applicants' action dismissed
April 25, 2001 Federal Court of Canada, Trial Division (Tremblay-Lamer J.)	Applicant's motion for extension of time dismissed
November 22, 2001 Federal Court of Appeal	Appeal dismissed

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(Stone, Evans and Malone JJ.A.)

January 21, 2002  
Supreme Court of Canada

Application for leave to appeal filed

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**28973**            **Rochelle Moss v. Attorney General of Canada - and between - Danny Moss v. Attorney General of Canada** (F.C.)

Coram:            McLachlin C.J. and Iacobucci and Arbour JJ.

The application for an extension of time in respect of the second application for leave to appeal is granted and the applications for leave to appeal from the judgments of the Federal Court of Appeal, Numbers A-1-00, A-2-00, A-8-00 and A-9-00, dated November 21, 2001, are dismissed with costs.

La demande de prorogation de délai relativement à la deuxième demande d'autorisation d'appel est accordée et les demandes d'autorisation d'appel des arrêts de la Cour d'appel fédérale, numéros A-1-00, A-2-00, A-8-00 et A-9-00, datés du 21 novembre 2001, sont rejetées avec dépens.

**NATURE OF THE CASE**

Income tax - Assessments - Evidence - The determination of evidence presented at trial by expert witness and qualified witnesses ought not to be ignored by the court and is a matter of public importance - Whether the lower courts erred in failing to find that certain residences were principal residences - Whether the lower courts erred in rejecting witnesses' evidence - Whether there are issues of public importance raised.

**PROCEDURAL HISTORY**

October 8, 1999  
Tax Court of Canada  
(Sarchuk J.T.C.C.)

Applicant Danny Moss's appeals from tax assessments for tax years 1991, 1992 and 1994 allowed in part: assessments referred back to Minister of National Revenue for reconsideration and reassessment

December 15, 1999  
Tax Court of Canada  
(Sarchuk J.T.C.C.)

Applicant Rochelle Moss's appeals from tax assessment for tax years 1987 to 1994 allowed in part: assessments referred back to Minister of National Revenue for reconsideration and reassessment

November 21, 2001  
Federal Court of Appeal  
(Strayer, Linden and Sharlow JJ.A.)

Applicants' appeals and applications for judicial review dismissed with costs

December 13, 2001  
Supreme Court of Canada

Application for leave to appeal filed

February 19, 2002  
Supreme Court of Canada

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

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**28966**            **Granada Investments Limited, Joseph Shaw and Barbara Allan Shaw v. Manufacturers Life Insurance Company and KPMG Inc.** (Ont.)

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Coram: McLachlin C.J. and Iacobucci and Arbour JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C31739, dated October 10, 2001, is dismissed with costs to the respondent Manufacturers Life Insurance Company.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C31739, daté du 10 octobre 2001, est rejetée avec dépens en faveur de l'intimée Compagnie d'Assurance-Vie Manufacturers.

**NATURE OF THE CASE**

Property law - Real property - Mortgage - Action on a mortgage - Duties of mortgagee - Whether the mortgagee is under a duty to mitigate - Whether the duty to mitigate applies to an action on a fixed debt - Whether the court of appeal erred by substituting its findings of fact - When did the mortgagee assume control of the property - Whether the court of appeal erred by excluding a reference in the amendments substituted in the trial judgment - Whether there are issues of public importance raised.

**PROCEDURAL HISTORY**

February 16, 1999 Ontario Court of Justice (Ground J.)	Respondents entitled to the amount of the mortgage debt as October 31, 1996 of \$5,726,911
October 10, 2001 Court of Appeal for Ontario (Osborne A.C.J.O., Labrosse and Doherty JJ.A.)	Appeal allowed
December 10, 2001 Supreme Court of Canada	Application for leave to appeal filed
February 6, 2002 Supreme Court of Canada (Major J.)	Motion for a stay of execution dismissed with costs

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**28808**      **Brian S. Heron v. Charles A. Smith** (N.S.)

Coram: McLachlin C.J. and Iacobucci and Arbour JJ.

The application for an extension of time and the application for leave to appeal from the judgment of the Nova Scotia Court of Appeal, Number CA 166921, dated June 20, 2001, are dismissed.

La demande de prorogation de délai et la demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Nouvelle-Écosse, numéro CA 166921, daté du 20 juin 2001, sont rejetées.

**NATURE OF THE CASE**

Procedural law - Actions - Appeal - Judgments and Orders - Whether the Supreme Court of Nova Scotia and the Nova Scotia Court of Appeal erred in their decision granting summary judgment to the respondent in respect of two orders for costs made by courts in California against the applicant?

**PROCEDURAL HISTORY**

July 18, 2000	Summary judgment granted in respect of two orders for
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Supreme Court of Nova Scotia  
(Goodfellow J.)

costs by California Courts against the applicant

June 20, 2001  
Nova Scotia Court of Appeal  
(Roscoe C.J.N.S., Glube and Saunders JJ.A.)

Appeal dismissed

October 15, 2001  
Supreme Court of Canada  
(LeBel J.)

Motion to extend time and/or serve the leave application  
granted until November 16, 2001

November 21, 2001  
Supreme Court of Canada

Application for leave to appeal and motion to extend time  
filed

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**29107**            **John Charles Menear v. Her Majesty the Queen** (Ont.)

Coram:            **McLachlin C.J. and Iacobucci and Arbour JJ.**

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C36921, dated January 25, 2002, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C36921, daté du 25 janvier 2002, est rejetée.

**NATURE OF THE CASE**

Criminal Law (Non-Charter) - Procedural Law - Extension of time for leave to appeal from convictions for assault and breaches of recognizance denied.

**PROCEDURAL HISTORY**

June 15, 2000  
Ontario Court of Justice (General Division)  
(Johnston J.)

Convictions for summary conviction offences based on guilty pleas, Other charges withdrawn, Sentence of one day imprisonment and two years probation

August 21, 2001  
Ontario Superior Court  
(Klowak J.)

Application for extension of time to appeal convictions dismissed

January 25, 2002  
Court of Appeal for Ontario  
(McMurtry C.J., Rosenberg and MacPherson JJ.A.)

Application for leave to appeal granted; appeal dismissed

March 15, 2002  
Supreme Court of Canada

Application for leave to appeal filed

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**29026**            **Integral Energy & Environmental Engineering Limited v. Stukwerkers Havenbedrijf n.v.** (Alta.)

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Coram: McLachlin C.J. and Iacobucci and Arbour JJ.

The application for an extension of time is granted and the application for leave to appeal from the judgment of the Court of Appeal of Alberta (Calgary), Number 01-00218, dated October 23, 2001, is dismissed with costs.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Alberta (Calgary), numéro 01-00218, daté du 23 octobre 2001, est rejetée avec dépens.

**NATURE OF THE CASE**

International law - Conflict of laws - Service *Ex Juris* - *Forum non conveniens* - Whether the Court of Appeal of Alberta erred in allowing the respondent's appeal and in setting aside the judgment of the Court of Queen's Bench of Alberta? - Whether the Court of Appeal erred in its interpretation and application of *Tolofson v. Jensen* [1994] 3 S.C.R. 1022? - Whether the decision of the Court of Appeal is in conflict with the decisions of other cases dealing with similar issues?

**PROCEDURAL HISTORY**

May 22, 2001 Court of Queen's Bench of Alberta (Lomas J.)	Respondent's motion to set aside orders for service <i>ex juris</i> dismissed.
October 23, 2001 Court of Appeal of Alberta (McClung, Côté and Hunt JJ.A.)	Appeal allowed.
January 17, 2002 Supreme Court of Canada	Application for leave to appeal and motion to extend time filed.

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**28949**      **Tiete O. Wolda v. Techform Products Limited and M & C Corporation** (Ont.)

Coram: L'Heureux-Dubé, Bastarache and Binnie JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C33757, dated October 1, 2001, is dismissed with costs to the respondent Techform Products Limited.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C33757, daté du 1 octobre 2001, est rejetée avec dépens en faveur de l'intimée Techform Products Limited.

**NATURE OF THE CASE**

Commercial law - Contracts - Contract of employment - Consultancy agreement - Employee Technology Agreement - Consideration - Duress - Applicant developed inventions while engaged as independent contractor - Issue of ownership of inventions - Whether the court of appeal erred in reversing the trial judge on the issues of consideration and duress - Whether the lower courts erred in law regarding the principles governing the ownership of inventions.

**PROCEDURAL HISTORY**

January 31, 2000 Ontario Superior Court of Justice (Sachs J.)	Respondent Techform declared owner of Tailgate Hinge Mechanism invention; Applicant declared owner of 3D Hinge invention
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February 17, 2000  
Ontario Superior Court of Justice  
(Sachs J.)

Addendum to Reasons for judgment: Applicant entitled to \$5,100 for breach of contract

October 1, 2001  
Court of Appeal for Ontario  
(Charron, Rosenberg and Goudge JJ.A.)

Appeal allowed, Techform declared owner of 3D Hinge; appeal allowed with respect to the counterclaim for damages for breach of contract and counterclaim dismissed; cross-appeal dismissed

November 30, 2001  
Supreme Court of Canada

Application for leave to appeal filed

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**28955**            **Valerie Morrow v. The Special Compensation Fund of the Law Society of British Columbia** (B.C.)

Coram:            L'Heureux-Dubé, Bastarache and Binnie JJ.

The application for leave to appeal from the judgment of the Court of Appeal of British Columbia, Number CA028869, dated November 20, 2001, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Colombie-Britannique, numéro CA028869, daté du 20 novembre 2001, est rejetée avec dépens.

**NATURE OF THE CASE**

Administrative law - Judicial review - Applicant seeking \$20 million in compensation from Respondent Special Compensation Fund - Chambers judge dismissing her application - Whether Court of Appeal erred in refusing to grant Applicant leave to appeal that decision.

**PROCEDURAL HISTORY**

July 10, 2001  
Supreme Court of British Columbia  
(Cullen J.)

Applicant's application for an order that the Respondent pay some \$20 million in compensation dismissed

August 21, 2001  
Court of Appeal for British Columbia  
(Hollinrake J.A.)

Applicant's application for extension of time and leave to appeal dismissed; Applicant barred from commencing proceedings to appeal July 10, 2001 order

November 20, 2001  
Court of Appeal for British Columbia  
(Prowse, Hall and Levine JJ.A.)

Applicant's application for review of August 21, 2001 order dismissed

December 11, 2001  
Supreme Court of Canada

Application for leave to appeal filed

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**28926**            **PRO-C Limited v. Computer City Inc.** (Ont.)

Coram:            L'Heureux-Dubé, Bastarache and Binnie JJ.

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The application for an extension of time is granted and the application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C34719, dated September 11, 2001, is dismissed with costs.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C34719, daté du 11 septembre 2001, est rejetée avec dépens.

**NATURE OF THE CASE**

Property law - Trade-marks - Statutes - Interpretation - *Trade-marks Act*, R.S.C. 1985, c. T-13 - "Use" - Evidence - Spoliation - Costs - Whether the Respondent used the Applicant's trade-mark as contemplated by the *Trade-marks Act*, s. 19 - Whether the Court of Appeal correctly interpreted the words "normal course of trade" in the *Trade-marks Act*, s. 4 - Whether the sections of the *Trade-marks Act* which deal with unfair trade practices are applicable in this case - Whether the Court of Appeal failed to give proper consideration to the facts of this case - Whether the Court of Appeal properly failed to infer spoliation on the part of the Respondent - Whether compensatory and punitive damages should have been granted - Whether the Court of Appeal properly assessed costs against the Applicant.

**PROCEDURAL HISTORY**

June 30, 2000 Superior Court of Justice (Whitten J.)	Respondent to pay general and punitive damages for trade-mark infringement
September 11, 2001 Court of Appeal for Ontario (Carthy, Doherty and Moldaver JJ.A.)	Appeal allowed; cross-appeal dismissed
January 17, 2002 Supreme Court of Canada	Motion for extension of time and application for leave to appeal filed

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**29007**            **Richard Poirier c. Sa Majesté la Reine** (Qué.)

Coram :            Les juges L'Heureux-Dubé, Bastarache et Binnie

Les requêtes accessoires sont accordées et la demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Québec), numéro 200-10-000725-981, daté du 16 novembre 2001, est rejetée.

The ancillary motions are granted and the application for leave to appeal from the judgment of the Court of Appeal of Quebec (Quebec), Number 200-10-000725-981, dated November 16, 2001, is dismissed.

#### **NATURE DE LA CAUSE**

*Charte canadienne des droits et libertés* - Droit criminel - La Cour d'appel a-t-elle erré en jugeant qu'il n'y a pas eu violation des art. 7, 8, 9, 10, 11 et 24 de la *Charte canadienne des droits et libertés* - La Cour d'appel a-t-elle erré dans son interprétation des art. 16, 367, 368 et 380 du *Code criminel*, L.R.C. 1985, ch. - La Cour d'appel a-t-elle erré dans l'évaluation des principes de la détermination de la peine en confirmant une peine trop sévère alors que les critères de l'art. 742.1 du *Code criminel* étaient réunis - La Cour d'appel a-t-elle erré en jugeant qu'il n'y a pas eu violation du droit du demandeur à la divulgation de la preuve - La Cour d'appel a-t-elle erré en jugeant qu'il n'y a pas eu violation du droit d'être jugé dans un délai déraisonnable - Le dépôt tardif d'un acte d'accusation modifié devait-il mener à un ajournement ou un arrêt des procédures?

#### **HISTORIQUE PROCÉDURAL**

Le 26 juin 1998  
Cour du Québec  
(Dufour j.c.q.)

Demandeur déclaré coupable d'avoir fait des faux documents, de s'être servi de documents contrefaits, de fraude et de complot contrairement aux art. 367, 368(1)a), 380(1)a), 465(1) du *Code criminel*

Le 22 mars 1999  
Cour du Québec  
(Dufour j.c.q.)

Demandeur condamné à 3 ans  
d'emprisonnement

Le 16 novembre 2001  
Cour d'appel du Québec  
(Beauregard, Boudouin et Rochette jj.c.a.)

Appels contre les déclarations de culpabilité et la sentence rejetés

Le 14 janvier 2002  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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**29054**            **Wayne Russel Norris, Sylvia Crowell-Norris, Susan Catherine McNab, Shannon Elizabeth McNab, Eileen Clare Norris and Catherine Alice Daisy Giffin v. Constable Mark Gatien and The City of Nepean** (Ont.)

Coram:            L'Heureux-Dubé, Bastarache and Binnie JJ.

The application for an extension of time is granted and the application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C34213, dated November 15, 2001, is dismissed with costs.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C34213, daté du 15 novembre 2001, est rejetée avec dépens.

**NATURE OF THE CASE**

Torts - Police officers - Investigation - Duty of care - Is a private law duty of care owed by a police officer to the victims of a crime to properly investigate the crime?

**PROCEDURAL HISTORY**

April 7, 2000 Ontario Superior Court of Justice (Cunningham J.)	Respondents Mark Gatien and City of Nepean's motion striking amended statement of claim, granted
November 15, 2001 Court of Appeal for Ontario (Osborne A.C.J.O., Austin and Laskin JJ.A.)	Applicants' appeal dismissed
February 4, 2002 Supreme Court of Canada	Motion to extend time and application for leave to appeal filed

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**28944**      **Maria Sokolowska, Elwira Sokolowska and Maria Sokolowska, personal representative of the Estate of Henry Sokolowska v. Notre Dame Cemetery** (Ont.)

Coram:      L'Heureux-Dubé, Bastarache and Binnie JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number M27447, dated October 1, 2001, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro M27447, daté du 1 octobre 2001, est rejetée.

**NATURE OF THE CASE**

Torts - Damages - Applicants claim damages against respondent for fraud and deception concerning burial of husband/father - Whether the lower courts erred in their decision to dismiss the action of the applicants and erred in the award of costs?

**PROCEDURAL HISTORY**

July 18, 2000 Ontario Superior Court of Justice (Cunningham J.)	Applicants' action for damages dismissed.
May 28, 2001 Ontario Superior Court of Justice (Southey, Matlow and Kozak JJ)	Appeal dismissed.
August 17, 2001 Ontario Superior Court of Justice (Power J.)	Motion to stay enforcement of judgment dated May 28, 2001 and judgment dated July 18, 2000 dismissed.

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October 1, 2001  
Court of Appeal for Ontario  
(Morden, Laskin and Rosenberg JJ.A.)

Motion for leave to appeal dismissed.

November 29, 2001  
Supreme Court of Canada

Application for leave to appeal filed.

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**29027**      **University Health Network (formerly Toronto General Hospital, Toronto Western Hospital and Ontario Cancer Institute, c.o.b. as Princess Margaret Hospital) v. Her Majesty the Queen in right of Ontario (by her representative, the Minister of Finance)** (Ont.)

Coram:      L'Heureux-Dubé, Bastarache and Binnie JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C35847, dated November 20, 2001, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C35847, daté du 20 novembre 2001, est rejetée avec dépens.

**NATURE OF THE CASE**

Taxation - Retail sales tax - Tax exemption - Public hospitals - Statutes - Interpretation - Enabling statutes of three individual hospitals each containing express tax exemption - Whether tax exemptions continued in amalgamated entities by virtue of "continuation of rights" clauses in amalgamating statutes.

**PROCEDURAL HISTORY**

January 17, 2001  
Ontario Superior Court of Justice  
(Rivard J.)

Application for declaration that the 1986 and the 1997 amalgamation did not nullify the tax exempt status of the Toronto General Hospital, the Toronto Western Hospital and the Ontario Cancer Institute granted

November 20, 2001  
Court of Appeal for Ontario  
(Laskin, Feldman and Simmons JJ.A.)

Appeal allowed; application dismissed

January 18, 2002  
Supreme Court of Canada

Application for leave to appeal filed

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**29013**                    **Robert Leblanc c. Sa Majesté la Reine** (Qué.)

Coram :                    Les juges L'Heureux-Dubé, Bastarache et Binnie

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec, (Montréal), numéro 500-10-000540-961, daté du 16 octobre 2001, est rejetée.

The application for an extension of time is granted and the application for leave to appeal from the judgment of the Court of Appeal of Quebec, (Montreal), Number 500-10-000540-961, dated October 16, 2001, is dismissed.

**NATURE DE LA CAUSE**

Droit criminel - Preuve - Directives au jury - Communication de la preuve - La Cour d'appel a-t-elle erré en droit en omettant de tenir compte que le juge, dans ses directives au jury, a indiqué que s'il concluait que l'accusé était probablement coupable, il devait, en sus, entretenir un doute raisonnable pour l'acquitter? - La Cour d'appel a-t-elle erré en confirmant qu'un juge du procès peut refuser d'ordonner au Ministère public de communiquer à la défense des éléments de preuve en se fondant uniquement sur une déclaration du Ministère public, sans examiner les éléments en question, quant à l'absence de pertinence des éléments de preuve alors que cet aspect était évidemment le litige? La Cour d'appel a-t-elle erré en appliquant l'article 686(1)(b)(iii) du *C.cr.*?

**HISTORIQUE PROCÉDURAL**

Le 15 février 1996  
Cour supérieure du Québec  
(Zerbisias j.c.s.)

Demandeur déclaré coupable par jury de meurtre au premier degré contrairement à l'article 231 du *Code criminel*, L.R.C. ch. C-46.

Le 16 octobre 2001  
Cour d'appel du Québec  
(Proulx, Fish et Chamberland jj.c.a.)

Appel rejeté

Le 4 janvier 2002  
Cour suprême du Canada

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

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**29086**                    **Michael Mohl v. The Senate Committee on Appeals on Academic Standing** (B.C.)

Coram:                    L'Heureux-Dubé, Bastarache and Binnie JJ.

The application for leave to appeal from the judgment of the Court of Appeal of British Columbia, Number CA028113, dated December 19, 2001, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Colombie-Britannique, numéro CA028113, daté du 19 décembre 2001, est rejetée avec dépens.

**NATURE OF THE CASE**

Administrative law – Judicial review – Jurisdiction – Standard of review – Universities – University Committee upholding faculty decision to give student failing grade – Whether appropriate standard of review correctness or patent unreasonableness – Whether Court of Appeal erred in finding rules of procedural fairness and natural justice not breached and appropriate standard of review met.

**PROCEDURAL HISTORY**

December 22, 2000 Supreme Court of British Columbia (Macaulay J.)	Applicant's application for judicial review of the decision of the Senate Committee on Appeals on Academic Standing of the University of British Columbia, dismissed
December 19, 2001 Court of Appeal of British Columbia (Esson, Donald and Saunders JJ.A.)	Appeal dismissed
February 15, 2002 Supreme Court of Canada	Application for leave to appeal filed

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29174      **B.H. by her next friend, A.H. and A.H. v. The Director of Child Welfare for the Province of Alberta - and between - B.H. by her next friend, A.H. v. Her Majesty the Queen in Right of Alberta (as represented by the Director of Child Welfare), Alberta Children's Hospital, Attorney General for Alberta and L.H.** (Alta.)

Coram:      Gonthier, Major and LeBel JJ.

The application for leave to appeal from the judgment of the Court of Appeal of Alberta (Calgary), Number 0201-0121-AC, dated April 26, 2002, is dismissed without costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Alberta (Calgary), numéro 0201-0121-AC, daté du 26 avril 2002, est rejetée sans dépens.

**NATURE OF THE CASE**

*Canadian Charter of Rights and Freedoms* – Civil – Child welfare – Child in need of protection – Freedom of religion – Right to security of the person – Right to equality – Age discrimination – “Mature minor” – 16 year old Jehovah's Witness diagnosed with acute myeloid leukemia refusing blood transfusions and administration of blood products because of religious beliefs – Treatment considered essential by medical experts – Director of Child Welfare obtaining apprehension and treatment orders – Ongoing administering of unwanted treatment using sedation and restraints – Capacity at time of orders determined to be that of mature minor which was later lost because of undue influence – Whether applicant a “mature minor” – If so, whether “mature minor” has right to refuse treatment under Alberta Child Welfare legislation or whether legislation a “complete code” – Whether granting apprehension and treatment orders and ongoing imposed treatment violates mature minor's *Charter* right to security of the person, freedom of religion or right to equality – If so, whether imposed medical treatment was reasonable limitation under s. 1 of the *Charter* – Alberta *Child Welfare Act*, R.S.A. 2000, c. C-12, ss. 1(1)(d), 1(2), 2, 22(2), 22(5) – *Canadian Charter of Rights and Freedoms*, ss. 1, 2(a), 7, 15(1).

**PROCEDURAL HISTORY**

February 18, 2002 Alberta Provincial Court (Jordan, Prov. Ct. J.)	Application of respondent, Director of Child Welfare, for apprehension and treatment orders, granted
February 20, 2002 Alberta Court of Queen's Bench (Rooke J.)	Applicants' application for stay of proceedings dismissed
March 13, 2002	

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(Supplementary reasons of Rooke J.)

April 10, 2002  
Alberta Court of Queen's Bench  
(Kent J.)

Applicants' appeal from judgment of Prov. Ct., and applications to adduce new evidence and for *habeas corpus*, dismissed

April 26, 2002  
Alberta Court of Appeal  
(Côté, McFadyen and Costigan JJ.A.)

Appeal dismissed

May 6, 2002  
Supreme Court of Canada

Application for leave to appeal and motions to expedite application for leave to appeal and hearing of appeal, if leave granted, and for stay of execution, filed

May 21, 2002  
Supreme Court of Canada  
Major J.S.C.C.

Motion to expedite application for leave to appeal and to abbreviate time for filing responses and reply, granted; motion for stay of execution referred to panel seized of application for leave to appeal

May 23, 2002  
Supreme Court of Canada

Motion for interim interim stay of execution, filed

May 24, 2002  
Supreme Court of Canada  
(Binnie J.)

Motion for interim interim stay of execution, dismissed

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**28990**      **Levesque Beaubien Geoffrion Inc. v. Allan Thomas Barakett** (N.S.)

Coram:      Gonthier, Major and LeBel JJ.

The application for leave to appeal from the judgment of the Court of Appeal of Nova Scotia, Number CA 170827, dated October 31, 2001, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Nouvelle-Écosse, numéro CA 170827, daté du 31 octobre 2001, est rejetée avec dépens.

**NATURE OF THE CASE**

Labour law - Master and servant - Wrongful dismissal - Respondent's action against Applicant for wrongful dismissal allowed - Court of Appeal upholding decision - Whether Court of Appeal erred in finding that manner of dismissal is simply another factor to be considered in determining period of reasonable notice - Whether Court of Appeal erred in failing to assess impact of manner of dismissal and extent of Respondent's injuries in order to determine appropriate level of compensation - Whether Court of Appeal erred in finding that Applicant breached its obligation of good faith and fair dealing in manner of dismissal.

**PROCEDURAL HISTORY**

March 14, 2001  
Supreme Court of Nova Scotia  
(Gruchy J.)

Respondent's action for wrongful dismissal allowed

October 31, 2001  
Nova Scotia Court of Appeal  
(Glube C.J.N.S., Freeman and Cromwell JJ.A.)

Appeal dismissed

December 28, 2001  
Supreme Court of Canada

Application for leave to appeal filed

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**29063**                    **707739 Alberta Ltd. and Azmin Habib v. Tim Phillips** (Alta.)

Coram:                    Gonthier, Major and LeBel JJ.

The motion for an extension of time is granted and the application for leave to appeal from the judgment of the Court of Appeal of Alberta (Calgary), Number 00-18971, dated September 5, 2001, is dismissed without costs.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Alberta (Calgary), numéro 00-18971, daté du 5 septembre 2001, est rejetée sans dépens.

**NATURE OF THE CASE**

Procedural law – Appeal – Civil procedure – Appeal struck from General Appeal List for failure to appear pursuant to Alberta *Rules of Court* – Court of Appeal finding no reasonable excuse for delay and interests of justice not warranting restoration of appeal – Whether Court of Appeal erred in refusing to restore appeal.

**PROCEDURAL HISTORY**

February 15, 2000  
Court of Queen's Bench of Alberta  
(Rooke J.)

Judgment for the Respondent in the amount of \$73,949 for breach of contract; Applicant to pay punitive an exemplary damages in the amount of \$25,000, for fraud

September 5, 2001  
Court of Appeal of Alberta  
(Hunt J.A.)

Application to restore the appeal dismissed

January 25, 2002  
Supreme Court of Canada

Application for leave to appeal filed and motion to extend time

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**29067**                    **Robert Ward v. Glen Clark** (B.C.)

Coram:                    Gonthier, Major and LeBel JJ.

The application for leave to appeal from the judgment of the Court of Appeal of British Columbia (Vancouver), Number CA027465, dated December 19, 2001, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Colombie-Britannique (Vancouver), numéro CA027465, daté du 19 décembre 2001, est rejetée avec dépens.

**NATURE OF THE CASE**

Torts – Libel and slander – Provincial cabinet minister making statement about private citizen during media scrum – Whether statement defamatory – Whether statement protected by qualified privilege – Whether limits of qualified privilege defence exceeded.

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**PROCEDURAL HISTORY**

June 22, 2000 Supreme Court of British Columbia (Owen-Flood J.)	Respondent liable in defamation; applicant awarded \$150,000 general damages
December 19, 2001 Court of Appeal of British Columbia (Esson, Newbury and Hall JJ.A.)	Respondent's appeal allowed: action dismissed; Applicant's cross-appeal dismissed
February 7, 2002 Supreme Court of Canada	Application for leave to appeal filed

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**29022**            **Emilia M. Collins v. Director of Assessment** (N.S.)

Coram:            **Gonthier, Major and LeBel JJ.**

The application for leave to appeal from the judgment of the Court of Appeal of Nova Scotia, Number CA 168248, dated December 6, 2001, is dismissed without costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Nouvelle-Écosse, numéro CA 168248, daté du 6 décembre 2001, est rejetée sans dépens.

**NATURE OF THE CASE**

Administrative law - Appeal - Review of a decision of the Nova Scotia Utility and Review Board for property tax assessment for 1995 - Whether the Nova Scotia Court of Appeal erred in its decision to dismiss the applicant's request for the production of additional material? - Whether the Nova Scotia Court of Appeal erred in law in refusing to consider two of the three issues put forth by the applicant?

**PROCEDURAL HISTORY**

November 17, 2000 Nova Scotia Utility and Review Board (Almon, David J.)	Applicant's property assessed at \$292,700 for the 1995 assessment year.
October 22, 2001 Nova Scotia Court of Appeal (Glube C.J.N.S., Oland and Cromwell JJ.A.)	Interim decision: Applications by respondent and NSURB for introduction of fresh evidence granted; application by applicant for production of additional material dismissed; parties permitted to submit affidavit evidence on notification issue.
December 6, 2001 Nova Scotia Court of Appeal (Glube C.J.N.S., Oland and Cromwell JJ.A.)	Appeal allowed: matter remitted to Nova Scotia Utility Review Board for new hearing.
January 16, 2002	Application for leave to appeal.

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Supreme Court of Canada

**27970**            **Les Entreprises AB Rimouski Inc. et Aldège Banville c. Sa Majesté la Reine** (C.F.)

Coram :            Les juges L'Heureux-Dubé, Arbour et LeBel

La demande de réexamen de la demande d'autorisation d'appel rejetée le 29 mars 2001, a aujourd'hui été rejetée.

The motion for reconsideration of the application for leave to appeal dismissed March 29, 2001, was this day dismissed.

**28905**            **Michael Stephen Leopold v. Her Majesty the Queen** (B.C.)

Coram:            Gonthier, Major and LeBel JJ.

The motion for reconsideration of the application for leave to appeal dismissed March 14, 2002, was this day dismissed.

La demande de réexamen de la demande d'autorisation d'appel rejetée le 14 mars 2002, a aujourd'hui été rejetée.

REVISED / RÉVISÉ

JUNE 25, 2002 / LE 25 JUIN 2002

**28426**            **Noël Ayangma - v. - NAV Canada, Mr. John S. Navaux, Manager ACC Operations (NAV Canada)** (P.E.I.) (Civil)

CORAM:            Gonthier, Major and LeBel JJ.

The motion for reconsideration is dismissed with costs.

La demande de réexamen est rejetée avec dépens.

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3.7.2002

Before / Devant: LEBEL J.

**Motion to expedite the decision on the application for leave to appeal**

**Requête visant à obtenir rapidement une décision sur la demande d'autorisation d'appel**

Jean-Guy Bourgoin, et al.

c. (29232)

Sa Majesté la Reine (Crim.)(Qué.)

**GRANTED IN PART / ACCORDÉE EN PARTIE**

Les demandeurs Bourgoin et autres, font face à diverses accusations criminelles. La date de leur procès n'est pas encore déterminée. Un autre procès se déroule à Montréal sous la présidence de l'honorable juge Jean-Guy Boilard de la Cour supérieure, depuis plusieurs mois. Au mois de mai 2002, Bourgoin et ses co-accusés ont tenté d'obtenir une interdiction de publication partielle de la preuve. Le juge Boilard a rejeté cette demande. Son jugement fait maintenant l'objet d'une demande d'autorisation d'appel.

Après le dépôt de la demande d'autorisation, Bourgoin et ses co-accusés ont déposé une demande d'accélération du traitement de la demande. Plus particulièrement, ils veulent que le délai accordé à la Couronne pour produire sa réponse soit réduit à sept jours.

Dans le contexte de cette affaire, et des problèmes juridiques qu'elle soulève, il serait injuste et déraisonnable de priver les avocats du ministère public et ceux des médias du délai prévu par la procédure de notre Cour pour la production d'une réponse. Sous cette réserve, après le dépôt de ces réponses, le traitement de la demande d'autorisation devrait être accéléré pour qu'une formation de Cour puisse l'examiner dans les meilleurs délais. Pour ces motifs, une fois les réponses de l'intimé et des mises en cause Société Radio Canada et La Presse déposées, le traitement de la demande d'autorisation sera accéléré, pour qu'elle soit soumise dans les meilleurs délais à la Cour.

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5.7.2002

Before / Devant: L'HEUREUX-DUBÉ J.

**Motion for extension of time to file supplementary material and for adjournment of the decision on the application for leave to appeal**

**Requête visant à obtenir une prorogation de délai pour le dépôt de documents supplémentaires et l'ajournement de la décision sur la demande d'autorisation d'appel**

Richard Poirier

c. (29007)

Sa Majesté la Reine (Crim.)(Qué.)

**DISMISSED / REJETÉE**

**À LA SUITE D'UNE DEMANDE** du demandeur Richard Poirier visant à obtenir une prorogation de délai et l'ajournement de la décision sur la demande d'autorisation d'appel;

**ET APRÈS AVOIR LU** la documentation déposée;

**L'ORDONNANCE SUIVANTE EST RENDUE:**

La demande de prorogation de délai et d'ajournement de la décision sur la demande d'autorisation d'appel est rejetée.

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5.7.2002

Before / Devant: MAJOR J.

**Motion for leave to intervene****Requête en autorisation d'intervention**

BY/PAR: Attorney General of Canada

IN/DANS: Her Majesty the Queen

v. (28945)

Jerimiah Josia Johnson (Crim.)(B.C.)

and

Her Majesty the Queen

v. (28946)

Daniel George Edgar (Crim.)(B.C.)

and

Her Majesty the Queen

v. (29043)

Stewart James Smith (Crim.)(B.C.)

and

Her Majesty the Queen

v. (29083)

Steven Keith Mitchell (Crim.)(B.C.)

and

Her Majesty the Queen

v. (29140)

Michael Edward Kelly (Crim.)(B.C.)

**GRANTED / ACCORDÉE**

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**UPON APPLICATION** by the Attorney General of Canada for an extension of time and for leave to intervene in the above appeals;

**AND HAVING READ** the material filed ;

**IT IS HEREBY ORDERED THAT:**

The motion for an extension of time and for leave to intervene of the applicant Attorney General of Canada is granted and the applicant shall be entitled to serve and file a joint factum not to exceed 20 pages in length.

The intervener shall serve and file its factum in all five appeals no later than six (6) weeks after the appellant serves and files its factums in *Johnson* (28945) and *Edgar* (28946) and the respondents in these said two (2) appeals shall serve and file their factums no later than six (6) weeks after the intervener serves and files its factum.

The respondents in *Kelly* (29140), *Mitchell* (29083) and *Smith* (29043) shall serve and file their factums whichever is the later of a) eight (8) weeks after that of the appellant or b) six (6) weeks after that of the intervener.

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 respondents any additional disbursements occasioned to the appellant and respondents by the intervention.

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**NOTICE OF APPEAL FILED SINCE  
LAST ISSUE**

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

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9.7.2002

**The Attorney General of British Columbia and the  
Ministry of Forests**

**v. (28974)**

**Thomas Paul, et al. (B.C.)**

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**NOTICE OF DISCONTINUANCE  
FILED SINCE LAST ISSUE**

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

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8.7.2002

**Durham Condominium Corporation 123**

v. (29204)

**Amberwood Investments Limited and 1018898 Inc.  
(Ont.)**

(leave)

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Reasons for judgment are available

Les motifs de jugement sont disponibles

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JULY 11, 2002 / LE 11 JUILLET 2002

**28091**            **Attorney General of Canada on behalf of Her Majesty the Queen in Right of Canada and in his capacity as Minister of Justice, Treasury Board of Canada and Deputy Minister of Justice v. Patricia Babcock, Linda Bell, Victoria Bryan, Lynn Burch, Karl Burdak, George Carruthers, Gordon Carscadden, Margaret E.T. Clare, Timothy W. Clarke, Moyra Dhaliwal, Mary Jane Dodge, Jonas Dubas, S. David Frankel, Greg D. Franklin, Valerie Hartney, Bruce Hilchey, John Kennedy, Digby Kier, Daniel L. Kiselbach, Ingeborg E. Lloyd, Josephine Loncaric, John Loo, William Mah, Ian McKinnon, Robert Moen, Nancy Oster, Michael Owens, Brent Paris, Darlene Patrick, Paul Pelletier, David Prest, Brian Purdy, Christopher Randall, Brian Sedgwick, Karen Shirley, Pamela Lindsay Smith, Tim Stokes, Cory Stolte, Josee Tremblay, Karen A. Truscott, Max Weder, Harry Wruck and Wendy Yoshida - and between - Attorney General of Canada on behalf of Her Majesty the Queen in Right of Canada and in his capacity as Minister of Justice, Treasury Board of Canada and Deputy Minister of Justice v. Rosemary Lutter and Emily Reid - and - Attorney General of British Columbia, Attorney General of Alberta, Information Commissioner of Canada and British Columbia Civil Liberties Association (B.C.)(Civil)**  
**2002 SCC 57 / 2002 CSC 57**

Coram:            McLachlin C.J. and L'Heureux-Dubé, Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour and LeBel JJ.

The appeal from the judgment of the Court of Appeal of British Columbia (Vancouver), Number CA026193, dated June 6, 2000, heard on February 20<sup>th</sup>, 2002 is allowed in part, with costs to the respondents.

L'appel contre l'arrêt de la Cour d'appel de la Colombie-Britannique (Vancouver), numéro CA026193, en date du 6 juin 2000, entendu le 20 février 2002, est accueilli en partie, avec dépens en faveur des intimés.



*Attorney General of Canada on behalf of Her Majesty the Queen in Right of Canada and in his capacity as Minister of Justice, The Treasury Board of Canada and The Deputy Minister of Justice - v. - Patricia Babcock, Linda Bell, Victoria Bryan, Lynn Burch, Karl Burdak, George Carruthers, Gordon Carscadden, Margaret E.T. Clare, Timothy W. Clarke, Moyra Dhaliwal, Mary Jane Dodge, Jonas Dubas, S. David Frankel, Greg D. Franklin, Valerie Hartney, Bruce Hilchey, John Kennedy, Digby Kier, Daniel L. Kiselbach, Ingeborg E. Lloyd, Josephine Loncaric, John Loo, William Mah, Ian McKinnon, Robert Moen, Nancy Oster, Michael Owens, Brent Paris, Darlene Patrick, Paul Pelletier, David Prest, Brian Burdy, Christopher Randall, Brian Sedgwick, Karen Shirley, Pamela Lindsay Smith, Tim Stokes, Cory Stolte, Josee Tremblay, Karen A. Truscott, Max Weder, Harry Wruck and Wedny Yoshida - and between - Attorney General of Canada on behalf of Her Majesty the Queen in Right of Canada and in his capacity as Minister of Justice, The Treasury Board of Canada and The Deputy Minister of Justice - v. - Rosemary Lutter and Emily Reid - and - Information Commissioner of Canada, British Columbia Civil Liberties Association, Attorney General of Alberta and Attorney General of British Columbia (B.C.) (Civil)(28091)*

**Indexed as: Babcock v. Canada (Attorney General) / Répertoire: Babcock c. Canada (Procureur général)**

**Neutral citation: 2002 SCC 57. / Référence neutre: 2002 CSC 57.**

**Judgment rendered July 11, 2002 / Jugement rendu le 11 juillet 2002**

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Present: McLachlin C.J. and L'Heureux-Dubé, Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour and LeBel JJ.

*Evidence -- Disclosure of government information -- Objection relating to a confidence of the Queen's Privy Council -- Government claiming in litigation with staff lawyers that certain documents were Cabinet confidences and consequently exempt from disclosure under s. 39 of Canada Evidence Act -- Processes by which Cabinet confidentiality may be claimed and relinquished -- Requirements for valid certification -- Whether by releasing some documents Crown has waived its right to invoke s. 39 over other documents -- Canada Evidence Act, R.S.C. 1985, c. C-5, s. 39.*

*Constitutional law -- Validity of legislation -- Legislation exempting Cabinet confidences from disclosure -- Whether legislation unconstitutional by reason of unwritten principles of Canadian Constitution -- Whether Parliament's decision to limit superior courts from compelling disclosure of Cabinet confidences impermissibly invades core jurisdiction of superior courts -- Canada Evidence Act, R.S.C. 1985, c. C-5, s. 39 -- Constitution Act, 1867, preamble, s. 96*

The respondents, who are staff lawyers with the federal Department of Justice in Vancouver, sued the federal Crown for breach of contract and breach of fiduciary duty when they failed to be paid the same salary as staff lawyers in Toronto. Lists of documents were exchanged, in which the government listed a number of documents as producible. In support of a motion to have the action transferred to the Federal Court, which was dismissed, the government filed the affidavit of an officer of the Treasury Board Secretariat which set out the rationale for the pay raise for Toronto lawyers. The government later changed its position on disclosure and delivered a certificate of the Clerk of the Privy Council pursuant to s. 39(1) of the *Canada Evidence Act* objecting to the disclosure of 51 documents and any examination thereon, on the ground that they contain "information constituting confidences of the Queen's Privy Council for Canada". The certificate claimed protection for 12 government documents previously listed as producible (some of which had already been disclosed), for five documents in the control or possession of the respondents, and for 34 government documents and information previously listed as not producible. The chambers judge dismissed the respondents' application to compel production of the documents for which the government claimed protection. A majority of the Court of Appeal reversed this decision and ordered production on the ground that the government had waived its right to claim confidentiality by listing some of the documents as producible and by disclosing selective information in the affidavit.

*Held:* The appeal should be allowed in part. The documents certified but disclosed are no longer protected and may be used in the litigation.

*Per McLachlin C.J. and Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour and LeBel JJ.:* Section 39 of the *Canada Evidence Act* is Canada's response to the need to provide a mechanism for the responsible exercise of the power to claim Cabinet confidentiality in the context of judicial and quasi-judicial proceedings. Certification by the Clerk of the Privy Council or by a minister of the Crown is the trigger by which information becomes protected. Before certifying information, however, the Clerk or minister must answer two questions in the affirmative: first, is it a Cabinet confidence within the meaning of ss. 39(1) and 39(2); and second, is it information which the government should protect

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taking into account the competing interests in disclosure and retaining confidentiality? Once certified, information gains greater protection than at common law since the absolute language contained in s. 39 goes beyond the common law approach of balancing the public interest in protecting confidentiality and disclosure on judicial review. The requirements for valid certification are as follows: (1) it must be done by the Clerk or minister; (2) it must relate to information within s. 39(2); (3) it must be done in a *bona fide* exercise of delegated power; (4) it must be done to prevent disclosure of hitherto confidential information. If there has been disclosure, s. 39 no longer applies, since its only purpose is to prevent disclosure. The only timing limits are those found in s. 39(4). The protection of s. 39 continues indefinitely unless: (1) the certificate is successfully challenged on the ground that it related to information that does not fall under s. 39; (2) the power of certification of the Clerk or minister has otherwise been improperly exercised; (3) s. 39(4) is engaged; or (4) the Clerk or minister chooses to decertify the information.

The concept of waiver in any ordinary sense of the term does not apply on the facts of this case, and this is consistent with the common law. By releasing some documents, the Crown has not waived its right to invoke s. 39 over other documents. Moreover, the language of s. 39(1) does not permit one to say that disclosure of some information removes s. 39 protection from other, non-disclosed information.

The wording of s. 39(1) leaves little scope for judicial review of a certification of Cabinet confidentiality. However, the principle that official actions must flow from statutory authority clearly granted and properly exercised still applies. The certification of the Clerk or minister under s. 39(1) may be challenged where the information for which immunity is claimed does not on its face fall within s. 39(1), or where it can be shown that the Clerk or minister has improperly exercised the discretion conferred by s. 39(1). It does not follow from the fact that s. 39 makes it difficult to attack a certification that the procedure is unlawful. All bodies expressly mentioned in s. 39, not just superior courts, are competent to inquire into the validity of s. 39 claims for protection.

The s. 39 certification does not apply to the documents already disclosed, nor does it apply to the five documents that were in the respondents' possession or control. Section 39 cannot be invoked regarding the affidavit, since the government disclosed selective information from it; therefore, the affidavit must be disclosed and the affiant may be cross-examined on its contents. As to related information, if it has been voluntarily disclosed in other documents, then s. 39 does not apply and the document must be produced. By contrast, the government is under no obligation to disclose related information contained in documents that have been properly certified under s. 39, but runs the risk that refusal may permit the court to draw an adverse inference. The remaining documents are protected by s. 39 of the Act. These conclusions are made without prejudice to future applications in this case.

Section 39 of the Act is constitutional. The unwritten constitutional principles do not limit government actions in this case. It is well within the power of the legislature to enact laws, as long as it does not fundamentally alter or interfere with the relationship between the courts and the other branches of government. Moreover, Parliament's decision to limit superior courts from compelling disclosure of Cabinet confidences does not impermissibly invade the core jurisdiction of the superior courts. Section 39 does not entirely exclude judicial review of the determination by the Clerk that the information is a Cabinet confidence. It does not, in and of itself, impede a court's power to remedy abuses of process.

*Per L'Heureux-Dubé J.:* There is substantial agreement with the majority's reasons. Before certifying information as confidential under s. 39(1) of the *Canada Evidence Act*, however, the Clerk or minister need not take into account the "competing interests" in disclosure. The Clerk or minister must only answer two questions before certifying, namely, (1) whether the document is a Cabinet confidence; and (2) whether it is information that the government wishes to protect.

APPEAL from a judgment of the British Columbia Court of Appeal (2000), 188 D.L.R. (4th) 678, 142 B.C.A.C. 161, 76 B.C.L.R. (3d) 35, [2000] 6 W.W.R. 577, [2000] B.C.J. No. 1127 (QL), 2000 BCCA 348, allowing the respondents' appeal from a judgment of the British Columbia Supreme Court (1999), 176 D.L.R. (4th) 417, 70 B.C.L.R. (3d) 128, [1999] B.C.J. No. 1777 (QL). Appeal allowed in part.

*David Sgayas, Q.C., and Christopher Rupar, for the appellants.*

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*Richard R. Sugden, Q.C., and Craig P. Dennis, for the respondents.*

*George H. Copley, Q.C., for the intervener the Attorney General of British Columbia.*

*James C. Robb, Q.C., for the intervener the Attorney General for Alberta.*

*Daniel Brunet, for the intervener the Information Commissioner of Canada.*

*Joseph J. Arvay, Q.C., and Christopher Jones, for the intervener the British Columbia Civil Liberties Association.*

*Solicitor for the appellants: The Deputy Attorney General of Canada, Ottawa.*

*Solicitors for the respondents: Sugden, McFee & Roos, Vancouver.*

*Solicitor for the intervener the Attorney General of British Columbia: The Attorney General of British Columbia, Victoria.*

*Solicitor for the intervener the Attorney General for Alberta: The Attorney General for Alberta, Edmonton.*

*Solicitor for the intervener the Information Commissioner of Canada: The Information Commissioner of Canada, Ottawa.*

*Solicitors for the intervener the British Columbia Civil Liberties Association: Arvay Finlay, Victoria.*

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Présents : Le juge en chef McLachlin et les juges L'Heureux-Dubé, Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour et LeBel.

*Preuve -- Divulgence de renseignements du gouvernement -- Opposition à la production de renseignements confidentiels du Conseil privé de la Reine -- Prétention du gouvernement, dans un litige l'opposant à des avocats à son emploi, que certains documents étaient des renseignements confidentiels du Cabinet et pouvaient donc être exemptés de divulgation en application de l'art. 39 de la Loi sur la preuve au Canada -- Mécanismes par lesquels le Cabinet peut invoquer la confidentialité de renseignements ou y renoncer -- Conditions d'une attestation valide -- En divulguant certains documents, la Couronne a-t-elle renoncé à son droit d'invoquer l'art. 39 à l'égard d'autres documents? -- Loi sur la preuve au Canada, L.R.C. 1985, ch. C-5, art. 39.*

*Droit constitutionnel -- Validité de la loi - Loi exemptant de divulgation les renseignements confidentiels du Cabinet -- La loi est-elle inconstitutionnelle par application des principes non écrits de la Constitution canadienne? -- La décision du Parlement de restreindre le pouvoir des cours supérieures d'ordonner la divulgation de renseignements confidentiels du Cabinet constitue-t-elle une ingérence inadmissible dans la compétence fondamentale des cours supérieures? -- Loi sur la preuve au Canada, L.R.C. 1985, ch. C-5, art. 39 -- Loi constitutionnelle de 1867, préambule, art. 96.*

Les intimés, des avocats à l'emploi du ministère fédéral de la Justice à Vancouver, ont poursuivi la Couronne fédérale pour rupture de contrat et manquement à son obligation fiduciaire parce qu'elle ne leur accordait pas la même rémunération qu'aux avocats internes de Toronto. Les parties ont échangé des listes de documents dans lesquelles le gouvernement a énuméré une série de documents décrits comme pouvant être produits. À l'appui d'une requête visant à faire transférer l'instance à la Cour fédérale, qui a été rejetée, le gouvernement a déposé un affidavit d'un cadre du Secrétariat du Conseil du Trésor qui explique pourquoi la rémunération des avocats de Toronto a été majorée. Plus tard, le gouvernement a modifié sa position concernant la divulgation des documents et produit une attestation émanant du greffier du Conseil privé en application du par. 39(1) de la *Loi sur la preuve au Canada* pour faire valoir son opposition à la divulgation de 51 documents et à tout interrogatoire les concernant au motif qu'ils contenaient [TRADUCTION] « des

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renseignements qui constituent des renseignements confidentiels du Conseil privé de la Reine pour le Canada ». L'attestation invoquait l'immunité à l'égard de 12 documents du gouvernement préalablement énumérés comme des documents pouvant être produits (dont certains avaient déjà été divulgués), de cinq documents sous le contrôle des demandeurs ou en leur possession, ainsi que de 34 documents et renseignements préalablement décrits comme ne pouvant être produits. Le juge en chambre a rejeté la demande des intimés visant à contraindre le gouvernement à produire les documents qu'il prétendait protégés. Les juges de la Cour d'appel, à la majorité, ont infirmé cette décision et ordonné la production des documents au motif que le gouvernement avait renoncé à son droit d'invoquer la confidentialité en indiquant sur sa liste que certains documents pouvaient être produits et en divulguant des renseignements sélectifs dans l'affidavit.

*Arrêt* : Le pourvoi est accueilli en partie. Les documents visés par l'attestation mais déjà divulgués ne sont plus protégés et peuvent être utilisés dans le cadre de l'instance.

Le juge en chef **McLachlin** et les juges Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour et LeBel: Le Canada a édicté l'art. 39 de la *Loi sur la preuve au Canada* pour répondre au besoin d'établir un mécanisme assurant l'exercice responsable du pouvoir d'invoquer la confidentialité des délibérations du Cabinet dans le contexte d'une instance judiciaire ou quasi judiciaire. C'est l'attestation du greffier du Conseil privé ou d'un ministre qui enclenche l'application de la protection à un renseignement. Le greffier doit toutefois répondre par l'affirmative à deux questions avant de délivrer une attestation : Premièrement, s'agit-il d'un renseignement confidentiel au sens des par. 39(1) et (2)? Deuxièmement, s'agit-il de renseignements que le gouvernement doit protéger compte tenu des intérêts opposés voulant, d'une part, qu'ils soient divulgués et, d'autre part, que la confidentialité soit préservée? Une fois sa confidentialité attestée, un renseignement bénéficie d'une protection plus grande que celle offerte par la common law, puisque les termes absolus édictés à l'art. 39, vont plus loin que le critère de la common law qui consiste à déterminer, dans le cadre d'une demande de contrôle judiciaire, si l'intérêt public commande que la confidentialité soit préservée ou que le renseignement soit divulgué. Les conditions de validité d'une attestation sont les suivantes : (1) l'attestation émane du greffier du Conseil privé ou d'un ministre; (2) elle vise des renseignements décrits au par. 39(2); (3) elle est délivrée dans l'exercice de bonne foi d'un pouvoir délégué; (4) elle vise à empêcher la divulgation de renseignements demeurés jusque-là confidentiels. Si les renseignements ont déjà été divulgués, l'art. 39 ne s'y applique plus, car son seul but est d'en empêcher la divulgation. Quant au délai, les seules limites sont celles fixées au par. 39(4). La protection offerte par l'art. 39 continue de s'appliquer indéfiniment, sauf si : (1) l'attestation est contestée avec succès pour le motif qu'elle se rattache à des renseignements qui ne relèvent pas de l'art. 39; (2) le greffier ou le ministre ont exercé leur pouvoir de délivrer l'attestation de façon irrégulière; (3) le par. 39(4) s'applique; ou (4), le greffier ou le ministre décident de révoquer l'attestation délivrée à l'égard des renseignements.

Compte tenu des faits de l'espèce, la notion de renonciation dans son sens courant ne trouve pas application et cette conclusion est compatible avec la common law. En communiquant certains documents, la Couronne n'a pas renoncé à son droit d'invoquer l'art. 39 relativement à d'autres documents. Le libellé du par. 39(1) ne permet pas d'affirmer que la divulgation de certains renseignements empêche d'autres renseignements non divulgués de bénéficier de la protection de l'art. 39.

Le libellé du paragraphe 39(1) limite beaucoup la portée du contrôle judiciaire d'une attestation de confidentialité d'un renseignement du Cabinet. Toutefois, il n'écarte pas le principe selon lequel les actes officiels doivent relever d'un pouvoir clairement conféré par la loi et exercé de façon régulière. Il est possible de contester l'attestation délivrée par le greffier ou le ministre en application du par. 39(1) lorsque les renseignements à l'égard desquels l'immunité est invoquée ne relèvent pas à leur face même du par. 39(1), ou lorsqu'il peut être démontré que le greffier ou le ministre ont exercé de façon irrégulière le pouvoir discrétionnaire que le par. 39(1) leur confère. Le fait que l'art. 39 rende difficile la contestation de l'attestation n'emporte pas pour autant l'illégitimité de la procédure. Tous les organismes mentionnés expressément à l'art. 39, et non simplement les cours supérieures, sont habilités à examiner la validité des demandes de protection fondées sur l'art. 39.

L'attestation délivrée en vertu de l'art. 39 ne s'applique pas aux documents déjà divulgués et il ne s'applique pas non plus aux cinq documents qui étaient en la possession des demandeurs ou sous leur contrôle. L'article 39 ne peut être invoqué relativement à l'affidavit, puisque le gouvernement a divulgué des renseignements sélectifs inclus dans l'affidavit;

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celui-ci doit donc être divulgué et son auteur peut être contre-interrogé relativement à son contenu. En ce qui concerne les renseignements connexes, s'ils ont été divulgués volontairement dans d'autres documents, l'art. 39 ne s'applique pas et les documents doivent être produits. Par contre, le gouvernement n'est nullement tenu de divulguer les renseignements connexes contenus dans les documents qui ont fait à bon droit l'objet d'une attestation sous le régime de l'art. 39, mais il court le risque que son refus de les divulguer permette à la cour de tirer une inférence défavorable. Les documents restants sont protégés par l'art. 39 de la Loi. Ces conclusions n'ont aucune incidence sur les demandes qui pourraient être présentées à l'avenir dans le dossier.

L'article 39 de la Loi est constitutionnel. Les principes non écrits de la Constitution ne limitent pas les actes du gouvernement en l'espèce. La législature a entièrement compétence pour édicter des lois, à condition de ne pas nuire ni faire obstacle sous un aspect fondamental aux rapports entre les tribunaux et les autres composantes du gouvernement. De plus, la décision du Parlement de restreindre le pouvoir des cours supérieures d'ordonner la divulgation de renseignements confidentiels du Cabinet ne constitue pas une ingérence inadmissible dans la compétence fondamentale des cours supérieures. L'article 39 n'exclut pas tout contrôle judiciaire de la décision du greffier portant que des renseignements constituent des renseignements confidentiels du Cabinet. Il n'empêche pas en soi un tribunal d'exercer son pouvoir de remédier aux abus de procédure.

*Le juge L'Heureux-Dubé* : Il y a accord, pour l'essentiel, avec les motifs de la majorité. Toutefois, avant d'attester que des renseignements sont confidentiels en vertu du par. 39(1) de la *Loi sur la preuve au Canada*, le greffier ou le ministre ne sont pas tenus de tenir compte des « intérêts » en jeu en ce qui concerne la divulgation des renseignements. Il doit se poser seulement les deux questions suivantes : (1) S'agit-il de renseignements confidentiels du Cabinet? (2) S'agit-il de renseignements que le gouvernement désire protéger?

POURVOI contre un arrêt de la Cour d'appel de la Colombie-Britannique (2000), 188 D.L.R. (4th) 678, 142 B.C.A.C. 161, 76 B.C.L.R. (3d) 35, [2000] 6 W.W.R. 577, [2000] B.C.J. No. 1127 (QL), 2000 BCCA 348, qui a accueilli l'appel interjeté par les intimés contre un jugement de la Cour suprême de la Colombie-Britannique (1999), 176 D.L.R. (4th) 417, 70 B.C.L.R. (3d) 128, [1999] B.C.J. No. 1777 (QL). Pourvoi accueilli en partie.

*David Sgayias, c.r., et Christopher Rupar, pour les appelants.*

*Richard R. Sugden, c.r., et Craig P. Dennis, pour les intimés.*

*George H. Copley, c.r., pour l'intervenant le procureur général de la Colombie-Britannique.*

*James C. Robb, c.r., pour l'intervenant le procureur général de l'Alberta.*

*Daniel Brunet, pour l'intervenant le Commissaire à l'information du Canada.*

*Joseph J. Arvay, c.r., et Christopher Jones, pour l'intervenante la British Columbia Civil Liberties Association.*

*Procureur des appelants : Le sous-procureur général du Canada, Ottawa.*

*Procureurs des intimés : Sugden, McFee & Roos, Vancouver.*

*Procureur de l'intervenant le procureur général de la Colombie-Britannique : Le procureur général de la Colombie-Britannique, Victoria.*

*Procureur de l'intervenant le procureur général de l'Alberta : Le procureur général de l'Alberta, Edmonton.*

*Procureur de l'intervenant le Commissaire à l'information du Canada : Le Commissaire à l'information du Canada, Ottawa.*

*Procureurs de l'intervenante la British Columbia Civil Liberties Association : Arvay Finlay, Victoria.*



## DEADLINES: APPEALS

The Fall Session of the Supreme Court of Canada will commence September 30, 2002.

The Supreme Court of Canada has enacted new rules that come into force on June 28, 2002.

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

### 1) For notices of appeal filed on and after June 28, 2002

**Appellant's record; appellant's factum; and appellant's book(s) of authorities** must be filed within 12 weeks of the filing of the notice of appeal or 12 weeks from decision on the motion to state a constitutional question.

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

**Intervener's factum and intervener's book(s) of authorities**, (if any), must be filed within eight weeks of the order granting leave to intervene or within 20 weeks of the filing of a notice of intervention under subrule 61(4).

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

### 2) For notices of appeal filed before June 28, 2002

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

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

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

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

The Registrar shall enter the appeal on a list of cases to be heard after the respondent's factum is filed or at the end of the eight-week period referred to in Rule 36.

## DÉLAIS : APPELS

La session d'automne de la Cour suprême du Canada commencera le 30 septembre 2002.

La Cour suprême du Canada a adopté de nouvelles règles qui entrent en vigueur le 28 juin 2002.

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

### 1) Pour les avis d'appel déposés le ou après le 28 juin 2002

**Le dossier de l'appelant, son mémoire et son recueil de jurisprudence et de doctrine** doivent être déposés dans les douze semaines du dépôt de l'avis d'appel ou douze semaines de la décision de la requête pour formulation d'une question constitutionnelle.

**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 des documents de l'appelant.

**Le mémoire de l'intervenant et son recueil de jurisprudence et de doctrine**, le cas échéant, doivent être déposés dans les huit semaines suivant l'ordonnance autorisant l'intervention ou dans les vingt semaines suivant le dépôt de l'avis d'intervention visé au paragraphe 61(4).

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

### 2) Pour les avis d'appel déposés avant le 28 juin 2002

**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.

**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 des documents de l'appelant.

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

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

Le registraire inscrit l'appel pour audition après le dépôt du mémoire de l'intimé ou à l'expiration du délai de huit semaines prévu à la règle 36.

SUPREME COURT OF CANADA SCHEDULE  
CALENDRIER DE LA COUR SUPREME

- 2002 -

OCTOBER - OCTOBRE						
S D	M L	T M	W M	T J	F V	S S
	M 30	1	2	3	4	5
6	7	8	9	10	11	12
13	H 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
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3	M 4	5	6	7	8	9
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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	M 2	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				

- 2003 -

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	M 13	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	M 10	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	M 10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

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

Sittings of the court:  
Séances de la cour:

18 sitting weeks / semaines séances de la cour

Motions:  
Requêtes:

M

80 sitting days / journées séances de la cour

Holidays:  
Jours fériés:

H

9 motion and conference days / journées requêtes, conférences

1 holidays during sitting days / jours fériés durant les sessions