

CONTENTS TABLE DES MATIÈRES

Applications for leave to appeal

923 Demandes d'autorisation d'appels
filed déposées

Applications for leave submitted 924 - 933 Demandes soumises à la Cour depuis la
to Court since last issue dernière parution

Oral hearing ordered

- Audience ordonnée

Oral hearing on applications for

- Audience sur les demandes d'autorisation
leave

Judgments on applications for 934 - 952 Jugements rendus sur les demandes
leave d'autorisation

Motions 953 - 960 Requêtes

Notices of appeal filed since last

961 Avis d'appel déposés depuis la dernière
issue
parution

Notices of intervention filed since 962 Avis d'intervention déposés depuis la
last issue dernière parution

Notices of discontinuance filed since

- Avis de désistement déposés depuis la
last issue dernière parution

Appeals heard since last issue and 963 - 968 Appels entendus depuis la dernière
disposition parution et résultat

Pronouncements of appeals reserved

- Jugements rendus sur les appels en
délibéré

Headnotes of recent judgments

- Sommaires des arrêts récents

Weekly agenda

969 Ordre du jour de la semaine

Summaries of the cases

- Résumés des affaires

Cumulative Index - Leave

- Index cumulatif - Autorisations

Cumulative Index - Appeals

- Index cumulatif - Appels

Appeals inscribed - Session

- Appels inscrits - Session
beginning
commençant le

Notices to the Profession and

- Avis aux avocats et communiqué
Press Release de presse

Deadlines: Motions before the Court 970 Délais: Requêtes devant la Cour

Deadlines: Appeals

971 Délais: Appels

Judgments reported in S.C.R.

- Jugements publiés au R.C.S.

**APPLICATIONS FOR LEAVE TO DEMANDES D'AUTORISATION
APPEAL FILED D'APPEL DÉPOSÉES**

William Wade

Brian H. Greenspan
Greenspan, Humphrey

v. (24153)

Her Majesty The Queen (Ont.)

Kenneth L. Campbell
Min. of the A.G.

FILING DATE 19.5.1994

Sa Majesté La Reine

Roger Roy et Claude Joyal
Min. de la Justice

c. (24154)

Suzanne Thibault (C.A.F.)(Qué.)

Michel C. Bernier
Bernier, Beaudry & Brochu

DATE DE PRODUCTION 27.5.1994

**APPLICATIONS FOR LEAVE SUBMITTED TO COURT
LAST ISSUE** **REQUÊTES SOUMISES À LA COUR
SINCE DEPUIS LA DERNIÈRE PARUTION**

MAY 31, 1994 / LE 31 MAI 1994

**CORAM: CHIEF JUSTICE LAMER AND CORY AND IACOBUCCI JJ. /
LE JUGE EN CHEF LAMER ET LES JUGES CORY ET IACOBUCCI**

Joseph Burke

v. (24071)

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

NATURE OF THE CASE

Criminal law - *Canadian Charter of Rights and Freedoms* - Procedural law - Pre-trial procedure - Evidence - Applicant charged with sexual offenses during the hearings of the Hughes Inquiry with respect to allegations of sexual misconduct by Christian Brothers at the Mount Cashel Orphanage - Whether the Court of Appeal erred in holding that the Applicant had not established that he was entitled to a stay of the proceedings - Whether the Court of Appeal erred in its application of the law regarding corroboration - Whether the Court of Appeal erred in refusing to interfere with findings as to credibility which were unreasonable in light of the evidence and for which the trial judge gave no reasons.

PROCEDURAL HISTORY

June 28, 1991
Supreme Court of Newfoundland, Trial Division
(Cameron J.)

Conviction: Three counts of indecent assault and one count of assault causing bodily harm

March 15, 1994
Court of Appeal of Newfoundland (Goodridge C.J.N., Gushue [dissenting in part] and Steele J.J.A.)

Appeal against conviction dismissed

April 8, 1994
Supreme Court of Canada

Notice of appeal filed

May 11, 1994
Supreme Court of Canada

Application for leave to appeal filed

David Blackwell

v. (24073)

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

NATURE OF THE CASE

Criminal law - Offences - Interpretation - Police - Dangerous driving causing death - *Mens rea* - Whether the Court of Appeal erred in law in holding that the trial judge had not erred in applying a higher standard of care by reason of the Applicant's presumed greater qualifications as a police officer - *R. v. Creighton*, [1993] 3 S.C.R. 3.

PROCEDURAL HISTORY

March 11, 1993 Ontario Court of Justice, General Division City of London (Brokenshire J.)	Applicant found guilty of dangerous driving causing death
March 25, 1994 Court of Appeal for Ontario (Grange, Finlayson and Laskin JJ.A.)	Appeal against conviction and sentence dismissed
May 9, 1994 Supreme Court of Canada	Application for leave to appeal filed

Michael Tibando

v. (24131)

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

NATURE OF THE CASE

Criminal law - Offences - Interpretation - Whether the Court of Appeal erred in holding that an intent that words spoken be taken "seriously" is a sufficient *mens rea* for the offence of threatening as defined by s. 264.1 of the *Criminal Code*, R.S.C. 1985, c. C-46 - Whether the Court of Appeal erred in holding that the finding that the Applicant did not intend that his words be communicated to his former girl friend was irrelevant in determining liability for the offence of threatening.

PROCEDURAL HISTORY

April 8, 1992 Ontario Court (Provincial Division) (Takach J.)	Conviction: knowingly uttering a threat to cause serious bodily harm
February 9, 1994 Court of Appeal for Ontario (Houlden, Carthy and Osborne JJ.A.)	Appeal dismissed
May 6, 1994 Supreme Court of Canada	Application for leave to appeal filed

The Attorney General of Ontario

v. (24069)

Criminal law - Sentencing - Procedural law - Appeal - Application of s. 741.2 of the *Criminal Code* - Jurisdiction of appellate courts to hear an appeal from an order made pursuant to s. 741.2 of the *Criminal Code* - Whether the Court of Appeal of New Brunswick erred in law by refusing the Applicant's application for leave to appeal his sentence and in particular by its refusal of jurisdiction to deal with the application for leave to appeal sentence as it related to the order pursuant to s. 741.2 of the *Criminal Code*.

PROCEDURAL HISTORY

July 28, 1993 Provincial Court (McKee P.C.J.)	Conviction: Forcible confinement, Assault, Death threat, theft and 2 counts of assault with a weapon
August 4, 1993 Provincial Court (McKee P.C.J.)	Sentence: 3 years and 9 months imprisonment; Order made pursuant to s. 741.2 C.C.C.
March 11, 1994 Court of Appeal of New Brunswick (Angers, Rice and Ayles, J.J.A.)	Application for leave to appeal against sentence dismissed
May 9, 1994 Supreme Court of Canada	Application for leave to appeal against sentence filed

Robert Gerald Wessel

v. (24119)

Her Majesty The Queen (Crim.)(Nn.S.)

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Offences - Trial - Sentencing - Trial judge's instructions to the jury - Similar fact evidence - Whether the Nova Scotia Court of Appeal erred in law when it deprived the Applicant of legal counsel thereby breaching his constitutional right under section 7 of the *Canadian Charter of Rights and Freedoms* - Whether Nova Scotia Court of Appeal erred in law when it failed to fully adjudicate all the grounds of appeal raised by the Applicant in his notice of appeal and in particular his primary ground of appeal being the issue of whether he received a full and proper defence by his lawyer during the course of the trial - Whether the trial judge erred in law in allowing prejudicial evidence of past events that were characterized as similar fact evidence because of their alleged probative value resulting in an unfair trial - Whether the trial judge erred in law when he argued with defence counsel about the evidentiary value of an affidavit in front of the jury thereby displaying a bias against the defence which could have and probably did prejudice the jury and result in an unfair trial - Whether the trial judge erred in law during the course of his charge to the jury when he misdirected the jury as to the use to be made of the similar fact evidence and failed to properly instruct the jury in regard to the law on the accused intending the natural consequences of his actions - Whether the trial judge erred when imposing an unduly harsh and excessive sentence which was disproportionate to the circumstances of the case and the accused.

PROCEDURAL HISTORY

June 11, 1993 Supreme Court of Nova Scotia (Grant J.)	Conviction: Attempted murder Sentence: 10 years imprisonment
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February 22, 1994
Court of Appeal of Nova Scotia
(Jones, Chipman and Pugsley, JJ.A.)

Appeal from conviction dismissed; Application
for leave to appeal against sentence dismissed

May 4, 1994
Supreme Court of Canada

Application for leave to appeal filed

May 10, 1994
Supreme Court of Canada (Major J.)

Motion to extend the time to file an application
for leave to appeal to May 16, 1994, granted

William James McCann

v. (22207)

Environmental Compensation Corporation (Ont.)

NATURE OF THE CASE

Environmental law - *Canadian Charter of Rights and Freedoms* - Statutes - Interpretation - Damages - Application for compensation for injuries suffered as a result of pollutants in the environment - Remedy under Part IX of the *Environmental Protection Act* restricted by Court of Appeal to spills occurring after the date of proclamation - Applicability of section 7 of the *Charter* to situations outside of the criminal justice system - Section 15, *Charter*.

PROCEDURAL HISTORY

June 29, 1988
Environmental Compensation Corporation
(Scott, Director)

Interim proposal: Claim for compensation denied

July 15, 1988
Environmental Compensation Corporation (Loveys,
Chairman, and Manzig and Scott, Directors)

Proposal: Claim for compensation denied

August 18, 1988
Supreme Court of Ontario (Fitzpatrick J.)

Application for review dismissed

September 13, 1990
Court of Appeal for Ontario
(Goodman, Robins and Finlayson JJ.A.)

Appeal dismissed

April 26, 1994
Supreme Court of Canada

Application for leave to appeal and for extension
of time filed

Noel Edwin Bell

v. (24134)

Canadian Human Rights Commission (F.C.A.)

NATURE OF THE CASE

Administrative law - Judicial review - Statutes - Interpretation - Mandatory retirement - Whether the Canadian Human Rights Commission has the power to interpret law - Whether the Canadian Human Rights Commission has the power to make a final decision regarding the constitutionality of the provisions of any statute which is under its consideration - Whether the decision in *McKinney v. University of Guelph*, [1990] 3 S.C.R. 229, has settled the question of the constitutionality of the *Canadian Human Rights Act*, s. 15(c).

PROCEDURAL HISTORY

April 16, 1992
Federal Court, Trial Division (Joyal J.)

Application for orders in the nature of *certiorari* and *mandamus* dismissed

February 25, 1994
Federal Court of Appeal (Pratte, Marceau and McDonald JJ.A.)

Appeal dismissed

April 22, 1994
Supreme Court of Canada

Application for leave to appeal filed

David John Cooper

v. (24135)

Canadian Human Rights Commission (F.C.A.)

NATURE OF THE CASE

Administrative law - Judicial review - Statutes - Interpretation - Mandatory retirement - Whether the Canadian Human Rights Commission has the power to interpret law - Whether the Canadian Human Rights Commission has the power to make a final decision regarding the constitutionality of the provisions of any statute which is under its consideration - Whether the decision in *McKinney v. University of Guelph*, [1990] 3 S.C.R. 229, has settled the question of the constitutionality of the *Canadian Human Rights Act*, s. 15(c).

PROCEDURAL HISTORY

April 16, 1992
Federal Court, Trial Division (Joyal J.)

Application for orders in the nature of *certiorari* and *mandamus* dismissed

February 25, 1994
Federal Court of Appeal (Pratte, Marceau and McDonald JJ.A.)

Appeal dismissed

April 22, 1994
Supreme Court of Canada

Application for leave to appeal filed

**CORAM: L'HEUREUX-DUBÉ, GONTHIER AND McLACHLIN JJ. /
LES JUGES L'HEUREUX-DUBÉ, GONTHIER ET McLACHLIN**

Claude Gratton

c. (24138)

**Druker et Associés Inc. *ès qualités* de syndic,
et
Marco Leblanc, Pierre Gagné et Jean-Marie Ouellette (Qué.)**

NATURE DE LA CAUSE

Droit commercial - Faillite - Vente - Créancier et débiteur - Droit administratif - Contrôle judiciaire
- Existence d'un appel de plein droit - La Cour d'appel du Québec a-t-elle erré en droit en refusant
de reconnaître au demandeur un droit d'appel de plein droit, en application de l'alinéa 3 de l'article
193 de la *Loi sur la faillite et l'insolvabilité*, L.R.C. (1985), ch. B-3?

HISTORIQUE PROCÉDURAL

Le 27 août 1993
Cour supérieure du Québec (Dagenais, J.C.S.)

Requête du demandeur en révocation de la
nomination du syndic-intimé et des inspecteurs

Le 8 mars 1994
Cour d'appel du Québec (Tyndale, Gendreau et accueillie; appel rejeté
Tourigny J.J.C.A.)

Requête des intimés en radiation de l'action

Le 6 mai 1994
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Claude Gratton

c. (24137)

**Druker et Associés Inc. *ès qualités* de syndic, et
Les Fermes Roclauloan Inc. (Qué.)**

NATURE DE LA CAUSE

Droit commercial - Faillite - Vente - Créancier et débiteur - Droit administratif - Contrôle judiciaire - Appel - Rôle du syndic - Radiation d'hypothèque judiciaire - La Cour d'appel du Québec a-t-elle erré en droit en rejetant l'appel du demandeur en raison de son caractère abusif ou dilatoire?

HISTORIQUE PROCÉDURAL

Le 27 août 1993
Cour supérieure du Québec (Dagenais, J.C.S.) Requête du syndic-intimé en radiation d'une hypothèque judiciaire accueillie

Le 8 mars 1994
Cour d'appel du Québec (Tyndale, Gendreau et Tourigny J.J.C.A.) Requête du syndic-intimé en radiation de l'appel et accueillie; appel rejeté

Le 6 mai 1994
Cour suprême du Canada Demande d'autorisation d'appel déposée

Rempel Bros. Concrete Ltd.

v. (24118)

Corporation of the District of Chilliwack (B.C.)

NATURE OF THE CASE

Municipal law - Indians - Constitutional law - Statutory instruments - Interpretation - Whether a municipality may regulate the use of land, namely, the removal of soil, on an Indian Reserve that is situated within municipal boundaries.

PROCEDURAL HISTORY

February 19, 1991
Supreme Court of British Columbia (McCull J.) Order: Bylaw No. 1313 quashed

March 1, 1994
Court of Appeal for British Columbia (Hinkson, Taylor and Finch J.J.A.) Appeal allowed

April 28, 1994
Supreme Court of Canada Application for leave to appeal filed

District of Chilliwack

v. (24104)

**Jespersion's Brake & Muffler Ltd., Allan Henry Jespersen
and Ann Elizabeth Jespersen, Joint Tenants (B.C.)**

NATURE OF THE CASE

Municipal law - Highways - Expropriation - Respondents claiming compensation for injurious affection following the construction of an overpass abutting their land - Land not expropriated - Whether, in applying the common law of private nuisance in the context of a public authority's liability to compensate a land owner for injurious affection *simpliciter*, the Court ought to balance the degree of interference with the claimant's property rights with the social utility and reasonableness of the local authority's project - Whether this Honourable Court's reasons for judgment in *St. Pierre v. Ministry of Transportation (Ontario)* [1987] 1 S.C.R. 906 should serve as the guidelines for compensable injurious affection *simpliciter* claims in all cases of alleged private nuisance arising out of the construction of public works.

PROCEDURAL HISTORY

July 7, 1992 Expropriation Compensation Board	Respondents' claim for compensation allowed
February 24, 1994 Court of Appeal for British Columbia (Carrothers, Hollinrake and Finch JJ.A.)	Appeal dismissed except as regards to award of interest
April 21, 1994 Supreme Court of Canada	Application for leave to appeal filed

Steve Webber

v. (24110)

**Melvin Unruh (an infant by his guardian *ad litem*
Gail Unruh, but now of full age) (B.C.)**

NATURE OF THE CASE

Torts - Damages - Respondent injured while playing hockey - Whether the Courts erred in concluding that the Respondent had not accepted the risk of being injured in the way in which the injury occurred, by contact from the rear in the vicinity of the boards, and where the Applicant intended to make body contact with the Respondent but did not intend to injure him - Whether the Courts erred in identifying the appropriate standard of care applicable to participants in a fast, aggressively played body contact sport, and in concluding that the Applicant had breached that standard of care.

PROCEDURAL HISTORY

November 6, 1992
Supreme Court of British Columbia (Meredith J.)

Respondent's action in damages allowed

March 2, 1994
Court of Appeal for British Columbia (Hutcheon,
Taylor and Cumming JJ.A.)

Appeal dismissed

April 29, 1994
Supreme Court of Canada

Application for leave to appeal filed

**JUDGMENTS ON APPLICATIONS
FOR LEAVE**

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

JUNE 2, 1994 / LE 2 JUIN 1994

23896 DEBORAH ELLIOT v. MICHAEL JOHN ELLIOT (Ont.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Family law - Divorce - Maintenance - Statutes - Interpretation - Whether the Court of Appeal erred in refusing to award a lump sum of support to compensate for the economic disadvantage suffered by the Applicant because of her child care responsibilities during marriage - Whether the Court of Appeal erred in relying on only s. 15(7)(a) of the *Divorce Act*, R.S.C. 1985, c. 3 (2nd Supp.) - Whether the Court of Appeal erred in purporting to consider as equivalent actual decisions of child care - Whether the Court of Appeal erred in leaving the Applicant with a disproportionate share of the economic disadvantage of the marriage - Whether the Court of Appeal erred in rejecting the evidence of the Applicant's expert - Whether the Court of Appeal erred in rejecting the Applicant's claim for a lump sum award of support between separation and trial - Whether the Court of Appeal erred in its interpretation and application of s. 15(7)(a) - Whether the Court of Appeal erred in awarding a periodic amount of maintenance - Whether the Court of Appeal erred in considering as the principal factor the ability of the Respondent to pay - Whether the Court of Appeal erred in not considering the availability of a combined lump sum and periodic payment.

23962 THALAYASINGAM SIVAKUMAR v. THE MINISTER OF EMPLOYMENT AND IMMIGRATION (F.C.A.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Immigration - *Canadian Charter of Rights and Freedoms* - International law - Criminal law - Procedural law - Evidence - Exclusion clause - Convention refugee status denied on the basis of crimes against humanity - Proper criteria for denying protection to persons who would otherwise be declared Convention refugees - Degree of complicity required to be found responsible for crimes against humanity - Whether a claimant's right under s. 7 of the *Charter* has been infringed by holding him to a standard of absolute liability for criminal acts under the exclusion clause - Whether the effect of invoking the exclusion clause on such a low standard of proof amounts to cruel and unusual treatment contrary to s. 12 of the *Charter* - Whether the evidence of a refugee claimant at his hearing might open him to charges under the *Criminal Code* and if so, whether this violates ss. 7, 11(c) and 13 of the *Charter* - Whether the Federal Court of Appeal is being faithful to the principles enunciated by this Court in *Singh and M.E.L.*, [1985] 1 S.C.R. 177, to guide and govern the relationship between immigration and refugee law and the *Charter*.

23951 ALBERTA HUMAN RIGHTS COMMISSION v. CO-OPERATORS GENERAL INSURANCE COMPANY (Alta.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Human Rights - Discrimination - Insurance - Whether permissible to base car insurance rates on gender.

23971 EUGENE BEKAR v. PATRICIA JEAN BEKAR (B.C.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Family law - Division of property - Family Assets - Whether the fact that an appeal judge had previously heard an appeal concerning the Applicant should have disqualified her from this appeal on the basis of a reasonable apprehension of bias - Whether the trial judge erred in failing to consider the factor of timber rights on Lot 8019 in his formula for dividing family assets, and whether the Applicant is precluded from raising the issue on appeal on the basis that it was not raised at trial - Whether the trial judge and the Court of Appeal erred in placing the onus of raising the existence and value of timber rights on Lot 8019 on the Applicant - What importance does the economic self-sufficiency of the parties play in the decision to keep an economic enterprise such as a farm intact during the division of family assets.

24015 WALTER KINGSLEY KIRTI WIJESINHA v. HER MAJESTY THE QUEEN
(Crim.)(Ont.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Criminal law - *Canadian Charter of Rights and Freedoms* - Statutes - Interpretation - Seizure - Whether the Court of Appeal erred in holding that s. 139(2) of the *Criminal Code*, R.S.C. 1985, c. C-46, applied to investigators for the Law Society of Upper Canada - Whether the Court of Appeal erred in interpreting and applying s. 24(2) of the *Charter* - Whether the Court of Appeal erred in failing to find that the handing over of the four declarations by the Law Society to the police constituted an unreasonable seizure within s. 8 of the *Charter* and that the declarations should have been excluded pursuant to s. 24(2) of the *Charter* - Whether the Court of Appeal erred in failing to find that the four declarations were not statutory declarations given under oath and pursuant to a lawful authority.

24014 ALLEN MAURICE KINSELLA also known as ALLAN MAURICE KINSELLA v. THE SOLICITOR GENERAL OF CANADA AND THE ATTORNEY GENERAL FOR THE PROVINCE OF ONTARIO (Crim.)(Ont.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Parole - Judicial review - Sentencing - Prisons - Parole eligibility - Application for judicial review under s. 745 of the *Criminal Code*, R.S.C. 1985, c. C-46 - Applicant convicted of first degree murder and sentenced to life in prison without eligibility for parole for 25 years - Whether the trial judge erred in law in charging the jury that public risk is a matter to be considered

in rendering its decision - Whether the trial judge erred in refusing to grant a request for a misapplication when it had been demonstrated that public attitude had been poisoned by demonstrations and erroneous newspaper reporting - Whether the trial judge erred in refusing to allow the Applicant the right to call his co-accused in evidence at the review whose evidence related to the nature of the offence.

24004 THE CORPORATION OF THE CITY OF STRATFORD, STRATFORD POLICE DEPARTMENT AND BOARD OF POLICE COMMISSIONERS v. ALBERT LARGE AND THE ONTARIO HUMAN RIGHTS COMMISSION (Ont.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Civil rights - Labour law - Judicial review - Standard of review - Discrimination on the basis of age - Mandatory retirement - *Bona fide* occupational requirement - Whether the Court of Appeal erred in finding that the principle of curial deference should be applied as the standard of review in appeals from the human rights tribunals, despite the broad right of appeal provided for by the legislature - Whether the Court of Appeal erred in finding that the subjective test of *Ontario Human Rights Commission v. Etobicoke*, [1982] 1 S.C.R. 202, requires direct and contemporaneous evidence of an actual, rationally based decision by an employer to adopt a policy, in situations where there is no ulterior motive for the policy - Whether the Court of Appeal erred in refusing to overturn the finding of the Board of Inquiry that the objective test of *Etobicoke* requires employers to consider individual accommodation of employees, when there is no reasonable alternative to the imposition of the requirement upon all employees in the unit.

24046 STEPHEN FADELLE v. HER MAJESTY THE QUEEN (Crim.)(N.S.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Trial - Reasonable doubt - Was conviction for murder justified given that it depended on inconsistent findings by the trial judge relating to the credibility of the critical Crown witness? - Effect of contradictions in the Court's assessment of evidence that were left unresolved and unexplained - Did trial judge err in assessing evidence without specific acknowledgement in determining credibility that the evidence supporting conviction ultimately came only from the alternative potential perpetrator of the very offence charged.

23795 VALERY FABRIKANT v. HER MAJESTY THE QUEEN (Crim.)(Qué.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

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

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

NATURE OF THE CASE

Criminal law - Procedural law - Contempt of court - Trial judge bringing Applicant's defence to an end after convicting and sentencing him on six counts of contempt of court during the Applicant's trial - Court of Appeal dismissing Applicant's Motion for urgent relief - Whether the Court of Appeal erred in applying the rule that the interlocutory decisions were not appealable.

24027 HER MAJESTY THE QUEEN v. C.A.M. (Crim.)(B.C.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Criminal law - Sentencing - Respondent convicted on counts of assaults, assaults with a weapon, sexual assaults, incest and uttering threats, against five of his children - Whether the majority of the Court of Appeal erred in reducing the sentence from twenty-five years imprisonment to eighteen years imprisonment - Whether the majority of the Court of Appeal erred in applying as a principle of sentencing, that absent the imposition of a life sentence, the maximum sentence that may be imposed for any number of offenses is twenty years - Whether the majority of the Court of Appeal erred in finding that retribution is not a legitimate principle of sentencing - Whether the majority of the Court of Appeal erred in finding that if the Respondent would not be rehabilitated during a twenty year sentence the Respondent was obligated to bring dangerous offender proceedings against him.

24035 DEAN BARIL v. MONIQUE LORRAINE LIARD AND LILY LIARD (Ont.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Family law - Infants - Custody and access - Conflict of laws - Comity - Appeals - *Children's Law Reform Act*, R.S.O 1990, c. C.12 - British Columbia order superseded by Ontario Courts - Can an inferior court supersede a decision of an extra-provincial superior court - Test for review of order made on basis of affidavit evidence - Gillespie v. Gillespie (1993) 10 O.R. 3d 641 (C.A.).

23739 MAYFIELD INVESTMENTS LTD. operating as the MAYFIELD INN v. GILLIAN STEWART, KEITH STEWART AND STUART DAVID PETTIE (Alta.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

The application for leave to cross-appeal is granted.

La demande d'autorisation d'appel-incident est accordée.

NATURE OF THE CASE

Torts - Damages - Negligence - Standard of care - Extent of liability - Causation - Respondent Gillian Stewart injured in motor vehicle accident following party at dinner theatre operated by the Applicant and attended by the Respondents - Respondent Pettie driving while intoxicated - Action in damages against the Applicant allowed - Percentage of total liability assessed against the Applicant if negligence of Respondent Pettie amounts to gross negligence.

23945 NASIR AHMED FIQIA v. HER MAJESTY THE QUEEN (Crim.)(Alta.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

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

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

NATURE OF THE CASE

Criminal law - Procedural law - Evidence - Defence - Whether the Court of Appeal erred in justifying the admission of prejudicial evidence as relevant to matters which were never in issue at the trial - Whether the Court of Appeal erred in justifying Crown counsel's gravely prejudicial cross-examination of the Applicant on the basis that it went to negate a defence which had never been raised by the Applicant at his trial - Whether the Court of Appeal erred in holding that the trial judge's response to jury question number one was responsive to the question and would have assisted the jury on a point on which they sought guidance - Whether the Court of Appeal erred in holding that the Applicant was not entitled to a new trial when counsel made serious suggestions about the conduct of the Applicant to a defence witness which the Crown did not seek to substantiate on denial by the said witness.

23968 FRED HARVEY v. ATTORNEY GENERAL FOR NEW BRUNSWICK, MINISTER OF MUNICIPALITIES, CULTURE AND HOUSING, DENNIS COCHRANE and HAZEN MYERS (N.B.)

CORAM: La Forest, Sopinka and Major JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Civil rights - Right to vote and to be qualified for membership in a legislative assembly - Whether that portion of s. 119(c) of the *Elections Act*, R.S.N.B. 1973, c. E-3, which purports to disqualify a person who is convicted of having committed a corrupt or illegal practice, during the five years following his conviction, from being elected to or sitting in the legislative assembly is a reasonable limit within the meaning of s. 1 of the *Charter* to the rights guaranteed in s. 3 of the *Charter* - Whether that portion of s. 119(c) of the *Elections Act* which, in the case of a person convicted of having committed a corrupt or illegal practice who at the date of conviction has been elected to the legislative assembly, purports to vacate his seat from the time of such conviction is a reasonable limit within the meaning of s. 1 of the *Charter* to the rights guaranteed in s. 3 of the *Charter* - Whether those portions of s. 119 which are inconsistent with the *Charter* are severable from the remaining portions of the section.

23861 THOMAS P. WALKER and JOHN M. ROBERTSON v. THE GOVERNMENT OF PRINCE EDWARD ISLAND (P.E.I.)

CORAM: La Forest, Sopinka and Major JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Constitutional Law - *Canadian Charter of Rights and Freedoms* - Statutes - Interpretation - Right to practice public accountancy - Public accounting in Prince Edward Island restricted to chartered accountants - Applicants are certified general accountants and are qualified to practice public accounting in other Canadian jurisdictions - Whether s-s. 14(1) of the *Prince Edward Island Public Accounting and Auditing Act*, R.S.P.E.I. 1988, Cap. P-28, violates s-s. 2(b), 6(2)(b) or s.7 of the *Charter*. -*Charter*, s. 1.

23758 MELVIN DARNELL ENGERDAHL v. HER MAJESTY THE QUEEN (Crim.)(B.C.)

CORAM: La Forest, Sopinka and Major JJ.

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

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

NATURE OF THE CASE

Criminal law - Evidence - Defence counsel inadequately prepared and inexperienced - Whether trial judge erred in not directing complainant as to appropriate manner for answering questions - Should defence have been allowed to examine complainant as to her previous sexual conduct - Introduction of fresh evidence.

23914 THE ROYAL BANK OF CANADA and DOANE RAYMOND LTD., Receiver and Manager of Pegasus Helicopters Inc. and PEAT MARWICK THORNE INC., Trustee of the Estate of the Bankrupt, Pegasus Helicopters Inc. v. MITSUI & CO. (CANADA) LTD. (N.S.)

CORAM: La Forest, Sopinka and Major JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Commercial law - Contracts - Sale - Lease - Whether the agreements between the parties were true leases or conditional sales contracts - Whether the *Conditional Sales Act* of Nova Scotia, New Brunswick, Newfoundland, Prince Edward Island and the North West Territories apply to leases of goods which contain a provision whereby the lessee has the right to become the owner of the goods - Did the Nova Scotia Court of Appeal err in its interpretation and application of the decision of the British Columbia Court of Appeal in *Re Nishi Industries* (1978), 28 C.B.R. (N.S.) 261, such that conflict now exists between the law governing conditional sales agreements as described by the two provincial Courts of Appeal?

23893 BRADLEY YOUNG v. HER MAJESTY THE QUEEN IN RIGHT OF NEWFOUNDLAND (Nfld.)

CORAM: La Forest, Sopinka and Major JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Torts - Occupier's Liability - Crown - Whether the standard of care required of the Crown in occupier's liability cases can be less than that accorded individuals - What is the standard of care in such a case.

23941 MANSHIP HOLDINGS LTD. v. ERIC A. MUISE, MARY IDA MUISE, LARRY D. HARMER and ROSE MARIE HARMER (N.B.)

CORAM: La Forest, Sopinka and Major JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Property law - Real property - Land titles - Easements - Licenses - Whether the Court of Appeal erred in characterizing the grants in question as easements rather than as personal licences.

23926 EDWARD JAMES ATTRIDGE v. HER MAJESTY THE QUEEN (Alta.)

CORAM: La Forest, Sopinka and Major JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Taxation - Business tax - Applicant reporting sales of shares in business in income tax returns at an adjusted cost - Minister of National Revenue revising adjusted cost - Tax Review Board dismissing Applicant's appeal of Notices of Reassessment - Federal Court, Trial Division, allowing Applicant's appeal - Whether the evidence of value found in the course of the trial to determine the fair market value of the business for the purpose of deriving an adjusted cost base under subdivision C of Part 1 of the *Income Tax Act*, S.C. 1970-71-72, c. 63, and s. 26 of the *Income Tax Application Rules*, 1971, can be "adjusted" on the basis of principles applicable to a determination of "fair value" under s. 199 of the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as was done by the trial judge.

23944 KETTLE RIVER SAWMILLS LTD. and ELK BAY LOGGING LTD. v. HER MAJESTY THE QUEEN (F.C.A.)

CORAM: La Forest, Sopinka and Major JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Taxation - Assessment - Statutes - Interpretation - Whether the Court of Appeal properly determined that under paragraph 13(21)(d.1) of the *Income Tax Act*, timber rights held by each of the Applicants became "timber resource property" after May 6, 1974, with the result that the entire proceeds of disposition were ordinary business income instead of either a non-taxable gain or a capital gain - If the Court of Appeal properly interpreted paragraph 13(21)(d.1), did it err in reversing the trial judge's application of the principle enunciated by the Exchequer Court of Canada in the case of *The D'Auteuil Lumber Co. Ltd. v. MNR* with respect to the determination of the cost of the timber resource property sold by each of the Applicants?

23877 BARRYS LIMITED v. FISHERMEN, FOOD AND ALLIED WORKERS' UNION and LABOUR RELATIONS BOARD (Nfld.)

CORAM: La Forest, Sopinka and Major JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Procedural law - Administrative law - Prerogative writs - Judgments and orders - Whether an application for an order in the nature of *certiorari* operates under the applicable Rules of Court as a stay of proceedings under the order which is the subject of the application - Whether the Applicant and its officers facing the threat of fine and imprisonment for alleged contempt of the order in question ought to be required to face contempt proceedings while the issue is resolved - Whether the Court of Appeal erred in failing to hold that the principle established in *Batchelor v. The Queen*, [1978] 2 S.C.R. 988, was applicable in civil proceedings notwithstanding the so-called privative clause, and in failing to hold that the order of the Respondent Board was stayed by operation of the *Rules of the Supreme Court, 1986*.

23999 LAKEVIEW-NATIONAL HOTELS INC. v. THE ASSESSOR FOR THE CITY OF WINNIPEG AND THE CITY OF WINNIPEG and THE BOARD OF REVISION OF THE CITY OF WINNIPEG - AND - 2108496 MANITOBA LTD. and LADCO CO. LTD. v. THE ASSESSOR FOR THE CITY OF WINNIPEG AND THE CITY OF WINNIPEG and THE BOARD OF REVISION OF THE CITY OF WINNIPEG (Man.)

CORAM: La Forest, Sopinka and Major JJ.

The applications for leave to appeal are dismissed with costs.

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

NATURE OF THE CASE

Administrative law - Municipal law - Assessment - Whether, in circumstances, Board of Revision has jurisdiction to review assessment.

24023 JOHN F. HEGGIE v. HER MAJESTY THE QUEEN (F.C.A.)

CORAM: La Forest, Sopinka and Major JJ.

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

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

NATURE OF THE CASE

Taxation - Assessment - Evidence - Whether the Federal Court of Appeal erred in treating the appeal as one based on a review of the trial judge's findings of fact - Whether the Federal Court of Appeal erred in failing either to analyze the trial judge's appreciation of the evidence or to consider his misinterpretation and erroneous recollection of the evidence as indicated on the record - Whether the Federal Court of Appeal failed to properly analyze the evidence that was before the trial judge and failed to give the benefit of the doubt to the taxpayer given the thrust of the evidence taken as a whole as determined in *Fries v. The Queen*, [1990] 2 S.C.R. 1322 - Whether the Federal Court of Appeal erred in failing to review the manner in which the trial judge treated the Applicant during the Applicant's giving of evidence at trial.

24009 IN THE MATTER OF THE ESTATE OF CLARENCE HAY, deceased SANDRA FLORENCE VOUT v. EARL HAY, CARL HAY, LARRY PARR and KENNETH PARR (Ont.)

CORAM: La Forest, Sopinka and Major JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Property law - Procedural law - Wills - Estates - Appeals - Validity of wills executed in "suspicious circumstances" - Whether doctrine of "suspicious circumstances", as formulated historically by the courts, is of growing importance in a society with an increasing number and proportion of members who are elderly - Whether doctrine must be re-examined in the light of contemporary society's greater openness towards non-traditional interpersonal relationships - Whether doctrine, as interpreted by the Court of Appeal, imposes a limit on the freedom of property of "marginalized" persons in society such as the elderly or the unmarried.

24025 THE CANADIAN ASSOCIATION OF REGULATED IMPORTERS, PARKVIEW POULTRY LTD., BERTMAR POULTRY LTD., GEORGE TSISENPOULOS, HENRY NEUFELD, ZIGMOND TIBAY, HENRY KIKKERT, EVA SZASZ PETERFFY, PAUL DINGA, C&A POULTRY LTD., ZOLTAN VARGA, JAKE DROST, GEORGE DROST, JOE DROST, MELICAN FARMS LTD., JOE SPECK, MARINUS KIKKERT, CHECKERBOARD HATCHERY, BRAMPTON CHICK HATCHING CO. LTD., ZOLTAN KOESIS, ROE POULTRY LTD., GABE KOESIS and HENRY FOIS v. ATTORNEY GENERAL OF CANADA, CANADIAN BROILER HATCHING EGG MARKETING AGENCY and CANADIAN HATCHERY FEDERATION (F.C.A.)

CORAM: La Forest, Sopinka and Major JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Administrative law - Judicial review of ministerial action - Duty of fairness in exercise of statutory powers - Was notice to Importers a "mere guideline" as held by the Court of Appeal - Whether grant of a discretionary power to a minister carries with it subdelegated legislative authority.

24003 MAINLAND SAND & GRAVEL LTD. v. ZOLTAN TUTINKA (B.C.)

CORAM: La Forest, Sopinka and Major JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Torts - Negligence - Occupier's liability - Respondent injured while motor cycling on Applicant's land - Whether risk of injury to Respondent foreseeable - Whether the defence of inherent risk was eliminated by *Waldick et al. v. Malcom et al.*

23897 SDC STERLING DEVELOPMENT CORPORATION, 681262 ONTARIO INC., 141608 CANADA INC., 139494 CANADA LTD., PETER HUNTER, PAUL HUNTER and DOUGLAS PEACOCK v. GARY KATZ and EDINBURGH CASTLE DEVELOPMENT CORPORATION (Ont.)

CORAM: La Forest, Sopinka and Major JJ.

The application for a stay of execution and the application for leave to appeal are dismissed with costs.

La demande de sursis d'exécution et la demande d'autorisation d'appel sont rejetées avec dépens.

NATURE OF THE CASE

Commercial law - Statutes - Arbitration - Judicial review - Interpretation - Contracts - Severance - Does the first interpretation and application of ss. 46(1)(3) and 46(2) of the *Arbitration Act, 1991*, S.O. 1991, c. 17, in view of the similar legislation in Alberta, Quebec, and Saskatchewan, warrant consideration by this Court? - Did the Court of Appeal err in setting aside the order of the motions court judge on the ground that he had failed to apply s. 46(2) of the *Arbitration Act, 1991*.

24041 JEFFREY DUNN v. HER MAJESTY THE QUEEN (Crim.)(Ont.)

CORAM: La Forest, Sopinka and Major JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Criminal law - Statutes - Interpretation - Sentencing - Applicant convicted of assault causing bodily harm - Whether the Court of Appeal erred in holding that the Applicant could not receive the benefit of a new sentencing provision that was proclaimed into force after he was sentenced at trial but before his appeal from sentence was heard and determined in the Court of Appeal.

23953 R.B. c. G.F. (Qué)

CORAM: Les juges L'Heureux-Dubé, Gonthier et McLachlin

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

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Code civil - Droit de la famille - Divorce - Partage des biens - Jugement de séparation de corps prononcé en 1987 - Reprise de vie commune pendant trois semaines en 1990 - Jugement de divorce prononcé en avril 1991 - Suite au jugement de divorce, est-ce que les parties ont conclu une transaction au sens de l'art. 1918 du *Code civil du Bas-Canada*? - Est-ce que les dispositions de la *Loi modifiant le Code civil du Québec et d'autres dispositions législatives afin de favoriser l'égalité économique des époux*, L.Q. 1989, ch. 55 (Loi 146), sont applicables en l'espèce? - Interprétation et application de l'art. 462.3 du *Code civil du Québec*, L.Q. 1980, ch. 39 et mod., lequel traite du partage du patrimoine familial en cas de séparation de corps, de dissolution ou de nullité du mariage.

23925 GORDON EDWARD ALLAN WADDELL v. THE UNITED STATES OF AMERICA
(B.C.)

CORAM: L'Heureux-Dubé, Gonthier and McLachlin JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Criminal law - Extradition - Procedural law - International - Statutes - Interpretation - Evidence - Offenses - Whether the Court of Appeal erred in substituting a new basis for extradition - Whether the Court of Appeal erred in using foreign indictments as evidence to establish a *prima facie* case in extradition proceedings - Whether the Court of Appeal erred in holding that the conduct of the non-registration of a firearm under U.S. federal taxation legislation was equivalent to possession of a prohibited weapon under the 1983 *Criminal Code* - Whether the Court of Appeal erred in holding that a firearm is not a firearm when it is a prohibited weapon - Whether the Court of Appeal erred in failing to acknowledge the right to possess the firearm pursuant to s. 12(6)(b) of the *Wildlife Act*, S.B.C. 1982, c. 57 - When there is a Provisional Arrest pursuant to Art. 11(3) of the *Treaty on Extradition between Canada and the United States of America*, Can. T.S. 1976, No. 3, should the words of Art. 9(4) of the *Treaty* be construed against the Applicant - Whether the Court of Appeal erred in holding that when there is a Provisional Arrest pursuant to Art. 11(3) of the *Treaty*, the words of Art. 9(4) of the *Treaty* do not require the passage in the requesting state of an *in absentia* sentence against a "convicted fugitive" - Was the Supreme Court *habeas corpus ad subjiciendum* proceeding was an "interlocutory" proceeding - Whether the Court of Appeal erred in holding that the extradition chambers judge had jurisdiction to commit for extradition when the Applicant, after *Provisional Arrest*, was held in custody during continuing non-compliance by the Respondent of Art. 9(4) and 11(3) of the *Treaty*.

23965 NO. 100 SAIL VIEW VENTURES LTD. v. JANWEST EQUITIES LTD. (B.C.)

CORAM: L'Heureux-Dubé, Gonthier and McLachlin JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Commercial law - Landlord and tenant - Leases - Interpretation of provision in lease - What should be the fundamental approach to interpreting a clause in a written contract? - In particular, in what circumstances, if any, is a court justified in ignoring other clauses in the written contract, the nature of the joint enterprise that is the purpose of the contractual relationship, or background legal or commercial context on which the bargain was formed? - Should a rent review of a long term ground lease consider the effect of use restrictions contained in the lease in assessing fair market rental value?

23938 HARBANSE SINGH DOMAN v. THE SUPERINTENDENT OF BROKERS AND THE BRITISH COLUMBIA SECURITIES COMMISSION (B.C.C.A.)

CORAM: L'Heureux-Dubé, Gonthier and McLachlin JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Administrative law - Commercial law - Stocks - Reasonable apprehension of bias - Proper test to be applied - If one panel member is disqualified on basis of apprehension of bias, should the whole panel be disqualified?

23979 RUSSELL JAMES BENNETT; WILLIAM RICHARDS BENNETT; AND HARBANSE SINGH DOMAN v. THE SUPERINTENDENT OF BROKERS AND THE BRITISH COLUMBIA SECURITIES COMMISSION (B.C.C.A.)

CORAM: L'Heureux-Dubé, Gonthier and McLachlin JJ.

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

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

NATURE OF THE CASE

Administrative law - Commercial law - Stocks - Reasonable apprehension of bias - Proper test to be applied - If one panel member is disqualified on basis of apprehension of bias, should the whole panel be disqualified?

24029 WENDY LEUNG v. THE ALBERTA UNION OF PROVINCIAL EMPLOYEES (Alta.)

CORAM: L'Heureux-Dubé, Gonthier and McLachlin JJ.

The application for leave to appeal is dismissed without costs.

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

NATURE OF THE CASE

Labour law - Grievances - Settlement - Duty of union to represent union members fairly.

24034 EDWARD CHUM RICHARDSON v. DAVID GLENN AVERY AND JOSEPH DONALD KORODY (B.C.) No. 24034

CORAM: L'Heureux-Dubé, Gonthier and McLachlin JJ.

The application for leave to appeal and for a stay of proceedings is dismissed with costs.

La demande d'autorisation d'appel et d'arrêt des procédures est rejetée avec dépens.

NATURE OF THE CASE

Torts - Damages - Trespass - Property law - Personal property - Costs - Action for damages for trespass upon the lands of the Applicant and for cutting and removing trees from his property and for damaging trees left standing - Action allowed in part - Stay of proceedings pending appeal - Whether the Court of Appeal for British Columbia erred in law in determining that the \$12,000.00 paid into court by the Respondents was in fact sufficient to cover any further award on appeal and to cover the costs awarded to the Applicant.

24042 LES TERRASSES ZAROLEGA INC. c. LA RÉGIE DES INSTALLATIONS OLYMPIQUES ET L'HONORABLE ALBERT MAYRAND, ES QUALITÉS, L'HONORABLE PAUL TRUDEAU, ES QUALITÉS, M^E JACQUES BESRÉ, ES QUALITÉS, LE CONSEIL D'ARBITRAGE - ET - LE PROCUREUR GÉNÉRAL DU QUÉBEC (Qué.)

CORAM: Les juges L'Heureux-Dubé, Gonthier et McLachlin

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

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Droit administratif - Procédure - Procédure civile - Législation - Brefs de prérogative - Contrôle judiciaire - Compétence - Preuve - Indemnisation de la demanderesse par suite de son expropriation par l'intimée - Interprétation des articles 10 et 27 de la *Loi concernant le Village Olympique*, L.Q. 1976, ch. 43 -La Cour d'appel du Québec a-t-elle erré dans son interprétation de l'article 27 de la loi.

24080 JAMES WINDER v. REVIEW PANEL UNDER MENTAL HEALTH ACT, HELD JUNE 10, 1993 AND CHAIRED BY BRIAN CHRUIKSHANK (B.C.)

CORAM: L'Heureux-Dubé, Gonthier and McLachlin JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Administrative law - Jurisdiction - Whether an administrative tribunal hearing constituted under the *Mental Health Act* has jurisdiction to convene and continue with a hearing when the patient's committal under the *Act* is invalid - Whether an administrative tribunal hearing constituted under the *Mental Health Act* has jurisdiction to discharge the patient when the committal under the *Act* is invalid.

23932 PETER EDWARDS v. THE SOLICITOR GENERAL OF ONTARIO, THE ATTORNEY GENERAL OF ONTARIO, THE ONTARIO PROVINCIAL POLICE, THE WATERLOO REGIONAL POLICE SERVICES, TOM MITCHINSON, THE ASSISTANT INFORMATION AND PRIVACY COMMISSIONER OF ONTARIO, IAN WILSON, THE ARCHIVIST OF ONTARIO, CATHERINE THOMPSON AND AN UNDISCLOSED AFFECTED PARTY (Ont.)

CORAM: L'Heureux-Dubé, Gonthier and McLachlin JJ.

The application for leave to appeal is dismissed without costs.

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

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Civil rights - Statutes - Interpretation - Whether the statutory right of access to information is encompassed within s. 2(b) of the *Charter* - Whether the mere release of information, without publication, describing potential criminal acts can be reasonably expected to deprive an accused of the right to a fair trial - Whether information about unidentifiable individuals is "personal information" as defined in s. 2 of the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F-31 - Appropriate scope of review of decisions of the Information and Privacy Commissioner.

23960 LA COMPAGNIE MINIÈRE QUÉBEC CARTIER c. LES MÉTALLURGISTES UNIS D'AMÉRIQUE, LOCAL 6869 ET RENÉ LIPPÉ (Qué.)

CORAM: Les juges L'Heureux-Dubé, Gonthier et McLachlin

La demande d'autorisation d'appel est accordée.

The application for leave to appeal is granted.

NATURE DE LA CAUSE

Droit du travail - Droit administratif - Arbitrage - Employeur et employé - Relations de travail - Brefs de prérogative - Contrôle judiciaire - Grief - Congédiement pour absentéisme relié à l'alcoolisme - La preuve des faits postérieurs au congédiement devrait-elle être permise? - Le cas échéant, quels sont les paramètres qui devraient être établis dans le but d'assurer le respect des droits des parties?

23924 HELO ENTERPRISES LTD. v. ERNST & YOUNG INC. LIQUIDATORS FOR THE STANDARD TRUST COMPANY IN LIQUIDATION (B.C.)

CORAM: L'Heureux-Dubé, Gonthier and McLachlin JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Commercial law - Administrative law - Criminal law - Statutes - Interpretation - Loan - Creditor and debtor - Interest - Judicial review - Standard of review - Interpretation and application of section 347 of the *Criminal Code*, R.S.C. 1985, c. C-46, which prohibits agreements to receive interest at a criminal rate, in civil proceedings - Company retained to find a lender for a condominium project - Mortgage agreement and a participation agreement between lender and borrower - Actuary finding that the effective annual rate of interest was over 60 per cent - Mortgage broker's facility fee included in calculation of interest - Whether the mortgage broker's facility fee was a cost to the borrower as found in the "soft costs" and was rightly included in the calculation of interest under section 347 of the *Criminal Code* - Whether the Court of Appeal for British Columbia erred in not making reference to the decision of the Court of Appeal for Ontario in *William E. Thompson Associates v. Carpenter* (1989) 61 D.L.R. (4th) 1, 69 O.R. (2d) 545 (C.A.).

23927 MILK BOARD v. RONALD GRISNICH AND GILBERT GRISNICH (B.C.)

CORAM: L'Heureux-Dubé, Gonthier and McLachlin JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Administrative law - Statutes - Statutory instruments - Interpretation - Series of orders enacted by the Milk Board as part of its regulation of the dairy industry - Whether statutory bodies with powers derived from multiple sources should be able to exercise those powers concurrently or whether they must choose one power or the other when enacting a particular rule or order - Whether statutory bodies with powers derived from multiple sources are required to specify on the face of each rule or order enacted by the statutory body which power is being exercised in the particular rule or order.

22339 LOUISETTE BÉLIVEAU ST-JACQUES c. FÉDÉRATION DES EMPLOYÉES ET EMPLOYÉS PUBLICS INC. (CSN) ET CONFÉDÉRATION DES SYNDICATS NATIONAUX (Qué.)

CORAM: Les juges L'Heureux-Dubé, Gonthier et McLachlin

La requête pour prolongation de délai est accordée et la requête pour continuation de pourvoi, traitée comme s'il s'agissait d'une requête pour permission d'en appeler, est aussi accordée. La requête pour paiement de frais et déboursés est référée au banc qui entendra l'appel au mérite.

The motion for an extension of time is granted and the motion for continuation of the appeal, dealt with as though it were a motion for leave to appeal, is also granted. The motion for payment of costs and disbursements is referred to the bench which will hear the appeal on the merits.

NATURE DE LA CAUSE

Procédure - Appel - Dépens - Désistement par les intimées de leur pourvoi devant cette Cour - Requérante désirant continuer cet appel - Vu les circonstances de la présente espèce et l'incertitude consécutive au jugement de la Cour d'appel, y a-t-il lieu de proroger les délais pour permettre à la requérante de continuer le pourvoi? - Vu les circonstances de la présente espèce, y a-t-il lieu d'ordonner aux intimées de payer tous les frais et déboursés, comme entre avocat-client, de la requérante?

24020 REGINA v. PATRICK PONTES (Crim.)(B.C.)

CORAM: L'Heureux-Dubé, Gonthier and McLachlin JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Motor vehicles - Offences - Defence - Whether the Courts below erred in finding that s. 94 of the *Motor Vehicle Act*, R.S.B.C. 1979, c. 288, when read in conjunction with s. 92, creates an absolute liability offence which violates s. 7 of the *Charter* - Whether the Courts below erred in distinguishing the case of *R. v. MacDougall*, [1982] 2 S.C.R. 605 - Whether the decision of the Courts below has serious consequences for the mistake of law/mistake of fact doctrine and has the potential to invalidate many strict liability offences, where a prohibition arises by operation of law, making them offences where knowledge of the prohibition is a condition precedent to a finding of *mens rea* or fault.

MOTIONS

REQUÊTES

12.5.1994

Before / Devant: GONTHIER J.

Motion to file an intervener's factum of 32 pages **Requête pour déposer le mémoire de 32 pages
d'un intervenant**

United Steelworkers of America

With the consent of the parties.

v. (23621)

Honourable Justice K. Peter Richard et al. (N.S.)

GRANTED / ACCORDÉE

24.5.1994

Before / Devant: THE REGISTRAR

Motion for acceptance of factum on appeal over 40 pages **Requête en acceptation d'un mémoire d'appel
de plus de 40 pages**

John O. Miron et al.

v. (22744)

Richard Trudel et al. (Ont.)

GRANTED / ACCORDÉE

25.5.1994

Before / Devant: LA FOREST J.

Motion for leave to intervene

Requête en autorisation d'intervention

BY/PAR: A.G. of Canada

IN/DANS: Scottish & York Insurance Co. Ltd.

v. (23841)

Co-Operators General Ins. Co.

(Ont.)

DISMISSED / REJETÉE

25.5.1994

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the respondent's response **Requête en prorogation du délai de signification et de dépôt de la réponse de l'intimé**

Robert Andrew Cross

With the consent of the parties.

v. (24065)

Harry Wood (Man.)

GRANTED / ACCORDÉE Time extended to May 19, 1994.

26.5.1994

Before / Devant: GONTHIER J.

Motion to extend the time in which to file a notice of appeal **Requête en prorogation du délai de dépôt de l'avis d'appel**

David George Naugler

With the consent of the parties.

v. (24111)

Her Majesty The Queen (Alta.)

GRANTED / ACCORDÉE Time extended to April 29, 1994.

26.5.1994

Before / Devant: CHIEF JUSTICE LAMER

Motion to extend the time in which to serve and file the case on appeal and the appellant's factum **Requête en prorogation du délai de signification et de dépôt du dossier d'appel et du mémoire de l'appelant**

Tonino Stellato

With the consent of the parties.

v. (23454)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE Time extended to May 10, 1994.

26.5.1994

Before / Devant: CHIEF JUSTICE LAMER

Motion for an order that this appeal is to be deemed not abandoned **Requête en déclaration que le présent appel est censé ne pas avoir été abandonné**

Tonino Stellato

With the consent of the parties.

v. (23454)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE

30.5.1994

Before / Devant: GONTHIER J.

Motion to strike out parts of the application **Requête en radiation de certaines parties de la demande d'autorisation**

Arthur Andersen Inc. et al.

v. (24111)

Toronto-Dominion Bank et al. (Ont.)

DISMISSED / REJETÉE

Upon reading the notice of motion to strike affidavit material in the application for leave to appeal and the written submissions made by the parties and related material, I find that the material is

3. The respondents to the application for leave shall be given 20 days following service and filing of applicant's revised application for leave to appeal and memorandum of argument to file their response.

30.5.1994

Before / Devant: GONTHIER J.

Motion to extend the time in which to file the **Requête en prorogation du délai de dépôt de la**
respondent's response **réponse de l'intimé**

Stolp Homes (Barrie) Inc. et al.

v. (24111)

Toronto-Dominion Bank et al. (Ont.)

GRANTED / ACCORDÉE

30.5.1994

Before / Devant: GONTHIER J.

Motion for review of taxation

Requête en révision de la taxation

Guillaume Kibale

Guillaume Kibale in person.

v. (21290)

Transport Canada (Ont.)

Alain Prefontaine, contra.

DISMISSED WITH COSTS / REJETÉE AVEC DÉPENS

31.5.1994

CORAM: Chief Justice Lamer and La Forest, L'Heureux-Dubé, Sopinka, Gonthier, Cory, McLachlin, Iacobucci and Major JJ.

Motion to adduce new evidence

**Requête pour déposer d'autres éléments de
preuve**

John P. Merrick, Q.C., for the appellants /

United Steelworkers of America, Local 9332

respondents the Honourable Justice K. Peter Richard.

v. (23621)

Raymond F. Larkin, Q.C., Dianne Pothier and David Roberts, for the appellant / respondent

The Honourable Justice K. Peter Richard et al.

United Steelworkers of America.

(N.S.)

Reinhold Endres and Louise Walsh Poirier, for the respondent the A.G. of Nova Scotia.

- and between -

The Honourable Justice K. Peter Richard et al.

Brian J. Hebert, for the respondent Westray Families' Group.

v.

Roseanne Skoke, for the respondent Town of Stellarton.

United Steelworkers of America, Local 9332 et al.

(N.S.)

Jay L. Naster, for the intervener the A.G. of Ontario.

Monique Rousseau et Gilles Laporte, pour l'intervenant le Procureur général du Québec.

Marva J. Smith, for the intervener the A.G. of Manitoba.

George H. Copley, for the intervener the A.G. of B.C.

Ross MacNab, for the intervener the A.G. of Saskatchewan.

Robert Wright, Q.C., for the respondent Roger Parry.

Robert L. Barnes, for the respondents Glynn Jones et al.

GRANTED / ACCORDÉE

29.4.1994

Before / Devant: CHIEF JUSTICE LAMER

Motion to adduce new evidence

Requête pour déposer d'autres éléments de preuve

Raymond Herbert Webster

With the consent of the parties.

v. (23085)

B.C. Hydro & Power Authority (B.C.)

GRANTED / ACCORDÉE

1. It is ordered that the following new evidence will be filed for the hearing of this appeal (for list see order or file).
2. It is further ordered that the appellant is granted leave to file the suggestion of death without prejudice to the respondents right to argue the issue of mootness at the hearing of this appeal;
3. It is further ordered that the appellant file its factum 45 days after the granting of the consent order for filing new evidence. The respondent will file its factum 45 days after receipt of the appellants factum;
4. It is further ordered that this appeal will inscribed for hearing during the Fall session of this Court;
5. It is further ordered that the respondents motion currently set for hearing on May 2, 1994 be and the same is hereby adjourned to the date of the hearing of the appeal herein.

1.6.1994

Before / Devant: LE JUGE EN CHEF LAMER

Demande pour obtenir des directives

Robert Lortie et al.

c. (24010)

Sa Majesté La Reine (Qué.)

Motion for directions

Avec le consentement des parties.

ACCORDÉE / GRANTED

1. Il est ordonné que les requérants soient autorisés à déposer leur avis d'appel à la date de cette ordonnance;
2. Il est en sus ordonné que le dossier conjoint soit signifié et déposé le ou avant le 15 juin 1994;
3. Il est en sus ordonné que les mémoires de tous les appelants soient signifiés et déposés le ou avant le 15 juillet 1994;
4. Il est en sus ordonné que tous les appelants inscrivent le pourvoi pour audition lors de la session d'automne 1994;
5. Il est en sus ordonné que l'intimé produise son mémoire le ou avant le 15 octobre 1994;

6. Il est en sus ordonné que le pourvoi soit entendu durant la semaine du 28 novembre 1994 ou celle du 5 décembre 1994.

1.6.1994

Before / Devant: THE REGISTRAR

Motion to extend the time in which to file the **Requête en prorogation du délai de dépôt de la**
respondent's response **réponse de l'intimé**

Her Majesty The Queen

With the consent of the parties.

v. (24102)

Douglas Fisher (Ont.)

GRANTED / ACCORDÉE Time extended to May 30, 1994.

1.6.1994

Before / Devant: THE REGISTRAR

Motion to extend the time in which to file the **Requête en prorogation du délai de dépôt du**
respondent's factum **mémoire de l'intimée**

The Tseshaht, an Indian Band et al.

With the consent of the parties.

v. (23234)

Her Majesty The Queen (B.C.)

GRANTED / ACCORDÉE Time extended to June 10, 1994.

2.6.1994

CORAM: Chief Justice Lamer and La Forest, L'Heureux-Dubé, Sopinka, Gonthier, Cory, McLachlin, Iacobucci and Major JJ.

Motion to strike out

Requête en radiation

John O. Miron et al.

v. (22744)

Richard Trudel et al. (Ont.)

Giovanna Roccamo and Mark Edwards, for the appellants.

Rebecca Regenstreif, for the intervener the A.G. of Ontario.

W. Ian Binnie, Q.C. and Lisa A. Clarkson, for Amicus Curiae.

Catherine L. Jones and R. Cooligan, for the respondents.

Graham R. Garton, Q.C. and James Hendry, for the intervener the A.G. of Canada.

Madeleine Aubé et Kathleen McNicoll, pour l'intervenant le procureur général du Québec.

Shawn Greenberg, for the intervener the A.G. of Manitoba.

GRANTED / ACCORDÉE

**NOTICES OF APPEAL FILED SINCE AVIS D'APPEL DÉPOSÉS DEPUIS
LAST ISSUE LA DERNIÈRE PARUTION**

26.5.1994

Ghislain Gaudet

v. (24156)

Laval Marchand et al. (Qué.)

DE PLEIN DROIT

27.5.1994

Her Majesty The Queen

v. (23749)

David Gordon Barrett (Ont.)

27.5.1994

Chang-Jie Chen

v. (23984)

The Minister of Employment and Immigration et al. (F.C.A.)

27.5.1994

Consolidated Enfield Corporation

v. (23887)

Michael F. Blair (Ont.)

30.5.1994

Merck & Co., Inc. et al.

v. (23905)

Apotex Inc. et al. (F.C.A.)

30.5.1994

Her Majesty The Queen

v. (24157)

Wayne Rupert Ball (B.C.)

AS OF RIGHT

19.5.1994

Naoufal Naoufal

v. (24158)

Her Majesty The Queen (Ont.)

AS OF RIGHT

20.5.1994

Francisco Javier Uriol

v. (24159)

Her Majesty The Queen (Ont.)

AS OF RIGHT

**NOTICES OF INTERVENTION AVIS D'INTERVENTION DÉPOSÉS
FILED SINCE LAST ISSUE DEPUIS LA DERNIÈRE PARUTION**

-

BY/PAR: Attorney General of Canada
Attorney General of Saskatchewan
Attorney General of British Columbia
Attorney General of Manitoba

IN/DANS: Wayne Clarence Badger

v. (23603)

Her Majesty The Queen et al. (Alta.)

**APPEALS HEARD SINCE LAST APPELS ENTENDUS DEPUIS LA
ISSUE AND DISPOSITION DERNIÈRE PARUTION ET
RÉSULTAT**

27.5.1994

CORAM: Chief Justice Lamer and La Forest, Sopinka, Gonthier, Cory, McLachlin and Iacobucci JJ.

Donald Edison Cobham

R.S. Prithipaul, for the appellant.

v. (23585)

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

Bart Rosborough, for the respondent.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Nature de la cause:

*Canadian Charter of Rights and Freedoms - Charte canadienne des droits et libertés - Droit Criminal law - Section 10(b) violation - Right to counsel - Violation de l'al. 10b) - Droit à counsel - Appellant subjected to demand to provide legal aid - Appelant a fait l'objet breath sample but not being informed he could obtain free advice immediately from Legal Aid - l'appelant a-t-il été informé qu'il pouvait sans frais obtenir lawyer whether or not he could afford a lawyer - l'assistance d'un avocat de l'aide juridique, qu'il ait Whether the Appellant was informed of his right to counsel - Whether the evidence obtained subsequent to the infringement of the Appellant's right to counsel should be excluded pursuant to s. 24(2) of the *Canadian Charter of Rights and Freedoms* - Whether the Court of Appeal erred in holding that the Appellant was under an obligation to adduce evidence of the existence of duty counsel in order to establish a breach of his right to counsel - Whether the Queen's Bench sitting on summary conviction appeal erred in directing counsel to adduce further information relevant to the *Charter* provision that was at issue. Le juge de la Cour du Banc de la Reine, lors d'un appel d'une déclaration de culpabilité par procédure sommaire, a-t-il commis une erreur en ordonnant à l'avocat de présenter d'autres renseignements relativement à la disposition invoquée de la *Charte*?*

27.5.1994

CORAM: Chief Justice Lamer and La Forest, L'Heureux-Dubé, Sopinka, Gonthier, Cory, McLachlin, Iacobucci and Major JJ.

Roman Swietlinski

Mark J. Sandler and Sandra G. Leonard, for the appellant.

v. (23100)

Attorney General of Ontario (Ont.)

Gary T. Trotter, for the respondent.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Nature de la cause:

Criminal law - Sentencing - Appellant convicted of first degree murder and sentenced to twenty-five years imprisonment without possibility of parole - Appellant applying to have parole eligibility reduced to fifteen years - Jury denying request and declining to set date for application for judicial review of parole eligibility - Did judge err in his charge to the jury - Whether jury should consider pre-offence character as opposed to post offence character - Interpretation of s. 745(2) of the *Criminal Code*, R.S.C. 1985, c. C-46.

Détermination de la peine - Appellant reconnu coupable de meurtre au premier degré et condamné à l'emprisonnement à perpétuité sans admissibilité à la libération conditionnelle avant 25 ans - Demande de libération conditionnelle - Un jury a rejeté la requête et refusé de fixer une date de présentation d'une nouvelle demande de contrôle judiciaire de l'admissibilité à la libération conditionnelle - Le jury devait-il examiner la moralité antérieure à l'infraction ou la moralité postérieure à l'infraction? - Interprétation du par. 745(2) du *Code criminel*, L.R.C. (1985), ch. C-46.

30.5.1994

CORAM: La Forest, Sopinka, McLachlin, Iacobucci and Major JJ.

Helen Marie Kent

Ralph W. Ripley, for the appellant.

v. (23664)

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

John C. Pearson, for the respondent.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Nature de la cause:

Criminal law - Offenses - Evidence - Interpretation - Whether the Court of Appeal erred in determining that the trial judge had not considered whether the

Droit criminel - Infractions - Preuve - Interprétation - La Cour d'appel a-t-elle commis une erreur en concluant que le juge de première

devices were designed for gaming - Whether the instance n'avait pas examiné si les dispositifs Court of Appeal erred in determining that an étaient conçus pour le jeu? - La Cour d'appel a-t-elle commis une erreur en concluant qu'on pouvait *Criminal Code*, R.S.C. 1985, c. C-46, without établir une infraction visée à l'al. 202(1)b) du evidence of wagering or gambling - Whether *Code criminel*, L.R.C. (1985), ch. C-46, sans devices that dispense as prizes only "free games" preuve de pari ou de jeu? - Les dispositifs qui ne are devices for gambling within the meaning of s. donnent comme prix que des «parties gratuites» 202(1)b) of the *Criminal Code*. sont-ils des dispositifs de jeu au sens de l'al. 202(1)b) du *Code criminel*?

30.5.1994

CORAM: La Forest, Sopinka, McLachlin, Iacobucci and Major JJ.

D.S.H. et al.

Stan Guenther, for the appellant D.S.H.

v. (23689)

Douglas J. Marion, for the appellant J.D.N.

Dirk Ryneveld, Q.C., for the respondent.

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

LA FOREST J. (orally for the Court) -- We are LE JUGE LA FOREST (oralement au nom de la ready to hand down judgment now. We agree with Cour) -- Nous sommes prêts à rendre jugement the dissenting reasons of Seaton J.A. in the British séance tenante. Nous souscrivons aux motifs de Columbia Court of Appeal. Accordingly, the appeal dissidence du juge Seaton de la Cour d'appel de la is allowed, the judgment of the Court of Appeal set Colombie-Britannique. En conséquence, le aside and the acquittals entered at trial are restored. pourvoi est accueilli, l'arrêt de la Cour d'appel est infirmé et les verdicts d'acquiescement inscrits au procès sont rétablis.

31.5.1994 to/au 1.6.1994

CORAM: Chief Justice Lamer and La Forest, L'Heureux-Dubé, Sopinka, Gonthier, Cory, McLachlin, Iacobucci and Major JJ.

United Steelworkers of America, Local 9332

John P. Merrick, Q.C., for the appellants / respondents the Honourable Justice K. Peter Richard.

v. (23621)

Raymond F. Larkin, Q.C., Dianne Pothier and David Roberts, for the appellant / respondent United Steelworkers of America.

The Honourable Justice K. Peter Richard et al. (N.S.)

- and between -

Reinhold Endres and Louise Walsh Poirier, for the respondent the A.G. of Nova Scotia.

The Honourable Justice K. Peter Richard et al.

Brian J. Hebert, for the respondent Westray

v.

Families' Group.

United Steelworkers of America, Local 9332 et al. (N.S.) et Roseanne Skoke, for the respondent Town of Stellarton.

Jay L. Naster, for the intervener the A.G. of Ontario.

Monique Rousseau et Gilles Laporte, pour l'intervenant le Procureur général du Québec.

Marva J. Smith, for the intervener the A.G. of Manitoba.

George H. Copley, for the intervener the A.G. of B.C.

Ross MacNab, for the intervener the A.G. of Saskatchewan.

Robert Wright, Q.C., for the respondent Roger Parry.

Robert L. Barnes, for the respondents Glynn Jones et al.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Nature de la cause:

Canadian Charter of Rights and Freedoms - Charte canadienne des droits et libertés - Droit Administrative law - Public inquiries - Evidence - administratif - Enquêtes publiques - Preuve - Right to silence - Individual respondents, Droit de garder le silence - Les particuliers managerial and supervisory employees at the Westray Mine, facing criminal charges following underground mining accident - Would their rights in relation to the Westray Mine Public Inquiry be adequately protected - Would the Inquiry infringe their right to silence under s. 7 of the Charter or their right to a fair trial guaranteed by s. 11(d) of the Charter? - Did the Nova Scotia Appeal Division erred in law in granting a stay of the Westray Mine Public Inquiry?

des intimés, occupant tous des postes de gestionnaire ou de surveillant à la mine Westray, ont fait l'objet d'accusations criminelles par suite d'un accident souterrain survenu dans la mine - Les droits garantis par la Charte recevraient-ils une protection suffisante dans le cadre de l'enquête publique relative à la mine Westray? - Les droits garantis par la Charte recevraient-ils une protection suffisante dans le cadre de l'enquête publique relative à la mine Westray? - La Section d'appel de la Cour suprême de la Nouvelle-Écosse a-t-elle commis une erreur de droit en prononçant la suspension de l'enquête publique sur la mine Westray?

1.6.1994

CORAM: Chief Justice Lamer and La Forest, L'Heureux-Dubé, Sopinka, Cory, McLachlin and Iacobucci JJ.

Her Majesty The Queen

Rosella Cornaviera, for the appellant.

v. (23712)

Paul Wayne Moyer (Crim.)(Ont.)

Bruce Duncan, for the respondent.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Nature de la cause:

Criminal law - Offenses - Interpretation - Whether the majority of the Court of Appeal erred in holding that s. 182(b) of the *Criminal Code*, R.S.C. 1985, c. C-46, offering an indignity to human remains, requires physical interference with the actual human remains.

Droit criminel - Infractions - Interprétation - La majorité a-t-elle commis une erreur en concluant que l'al. 182b) du *Code criminel*, L.R.C. (1985), ch. C-46 indignité envers des restes humains, exige un contact physique avec les restes eux-mêmes?

2.6.1994

CORAM: Chief Justice Lamer and La Forest, L'Heureux-Dubé, Sopinka, Gonthier, Cory, McLachlin, Iacobucci and Major JJ.

John O. Miron et al.

Giovanna Roccamo and Mark Edwards, for the appellants.

v. (22744)

Richard Trudel et al. (Ont.)

Rebecca Regenstreif, for the intervener the A.G. of Ontario.

W. Ian Binnie, Q.C. and Lisa A. Clarkson, for Amicus Curiae.

Catherine L. Jones and R. Cooligan, for the respondents.

Graham R. Garton, Q.C. and James Hendry, for the intervener the A.G. of Canada.

Madeleine Aubé et Kathleen McNicoll, pour l'intervenant le procureur général du Québec.

Shawn Greenberg, for the intervener the A.G. of

Manitoba.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Canadian Charter of Rights and Freedoms - *Charte canadienne des droits et libertés* - Lois - Statutes - Insurance - Interpretation - Motor vehicles - *Insurance Act*, R.S.O. 1980, c. 218 - Definition of spouse - Whether common law spouse covered by uninsured motorist coverage and accident benefits for loss of income - Whether the Court of Appeal erred in finding that the provisions of the Ontario Standard Auto Policy with respect to uninsured coverage and accident benefits for loss of income as prescribed by Part VI of the *Insurance Act* do not contravene s. 15 of the *Charter* by limiting benefits of the law to married spouses - Whether the Court of Appeal erred in finding that a court of first instance is bound by *stare decisis* to follow an appellate court's decision thus prevailing over the requirements of the Constitution as set out in s. 52(1) of the *Charter*, contrary to the reasoning of the Supreme Court of Canada in *R.W.D.S.U. v. Dolphin Delivery Ltd.*, [1986] 2 S.C.R. 573 and *R. v. Swain*, [1991] 1 S.C.R. 933.

Nature de la cause:

Assurances - Interprétation - Véhicules à moteur - *Loi sur les assurances*, S.R.O. 1980, ch. 218 - Définition de conjoint - Le conjoint de fait est-il couvert par la garantie non-assurance et l'indemnité d'accident pour perte de revenu? - La Cour d'appel a-t-elle commis une erreur en concluant que les dispositions de la police type d'assurance-automobile relatives à la garantie non-assurance et à l'indemnité d'accident pour perte de revenu, prescrites à la partie VI de la *Loi sur les assurances* ne contreviennent pas à l'art. 15 de la *Charte* en limitant le bénéfice de la loi aux conjoints mariés? - La Cour d'appel a-t-elle commis une erreur en concluant qu'une cour de première instance est tenue, vu la règle *stare decisis*, de suivre une décision d'un tribunal d'appel écartant ainsi les exigences de la Constitution énoncées au par. 52(1) de la *Charte*, contrairement au raisonnement de la Cour suprême du Canada dans les arrêts *SDGMR c. Dolphin Delivery Ltd.*, [1986] 2 R.C.S. 573, et *R. c. Swain*, [1991] 1 R.C.S. 933?

WEEKLY AGENDA

ORDRE DU JOUR DE LA SEMAINE

AGENDA for the week beginning June 6, 1994.

ORDRE DU JOUR pour la semaine commençant le 6 juin 1994.

Date of Hearing/ Case Number and Name/
Date d'audition NO. Numéro et nom de la cause

The Court is not sitting this week

La Cour ne siège pas cette semaine

NOTE:

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

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

DEADLINES: MOTIONS

DÉLAIS: REQUÊTES

BEFORE THE COURT:

DEVANT LA COUR:

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:

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:

Motion day : June 6, 1994

Audience du : 6 juin 1994

Service : May 16, 1994
Filing : May 23, 1994
Respondent : May 30, 1994

Signification : 16 mai 1994
Dépôt : 23 mai 1994
Intimé : 30 mai 1994

DEADLINES: APPEALS

DÉLAIS: APPELS

—

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

Case on appeal must be filed within three months of the filing of the notice of appeal.

Le dossier d'appel doit être déposé dans les trois mois du dépôt de l'avis d'appel.

Appellant's factum must be filed within five months of the filing of the notice of appeal.

Le mémoire de l'appelant doit être déposé dans les cinq mois du dépôt de l'avis d'appel.

Respondent's factum must be filed within eight weeks of the date of service of the appellant's factum. **Le mémoire de l'intimé** doit être déposé dans les huit semaines suivant la signification de celui de l'appelant.

Intervener's factum must be filed within two weeks of the date of service of the respondent's factum. **Le mémoire de l'intervenant** doit être déposé dans les deux semaines suivant la signification de celui de l'intimé.

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 de signification du mémoire de l'intimé.

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