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Camille Huot
Josée D'Aoust
Lapointe, Schachter, Champagne & Talbot

c. (23849)

Sa Majesté La Reine (Ont.)
James K. Stewart
Proc. gén. Ontario

DATE DE PRODUCTION 23.12.1993

715341 Ontario Ltd.
David S. Seabrook
Beechie, Madison, Sawchuk & Seabrook

v. (23912)

The Minister of National Revenue (F.C.A.)
John C. Tait, Q.C.
Dep. A.G. of Canada

FILING DATE 17.12.1993

The Royal Bank of Canada et al.
Paul C. Martin

v. (23914)

Mitsui & Co. (Canada) Ltd. (N.S.)
George W. MacDonald, Q.C.
McInnes Cooper & Robertson

FILING DATE 21.12.1993

Scott David Jones
Peter Wilson
Wilson & Buck

v. (23916)

Her Majesty The Queen (Crim.)(B.C.)
Elizabeth Bennett
A.G. of B.C.

FILING DATE 17.12.1993

Constantin Teodorescu
Constantin Teodorescu

c. (23917)

Sa Majesté La Reine (C.A.F.)
Richard Morneau

DATE DE PRODUCTION 22.12.1993

Jake Friesen
Craig C. Sturrock
Thorsteinssons

v. (23922)

Her Majesty The Queen (F.C.A.) (Ont.)
John C. Tait, Q.C.
Dep. A.G. of Canada

FILING DATE 23.12.1993

Helo Enterprises Ltd.
Donald J.A. Bohun

v. (23924)

Ernst & Young Inc. Liquidators for the Standard Trust Company in liquidation (B.C.)
Blake, Cassels & Graydon

FILING DATE 6.1.1994

Edward James Attridge
Robert J. Wilkins, Q.C.
Walsh Wilkins

v. (23926)

Her Majesty The Queen (F.C.A.)
Gordon Bourgard
Dept. of Justice

FILING DATE 30.12.1993

Milk Board
Steven R. Stark
Peterson Stark

v. (23927)

Ronald Grisnich et al. (B.C.)
Christopher Harvey, Q.C.
Russell & DuMoulin

FILING DATE 23.12.1993

Lawrence O'Leary
Robert D. Breen
Pink, Breen, Larkin

v. (23928)

Her Majesty The Queen (N.B.)
Michael D. Gorman
Office of the A.G.

FILING DATE 30.12.1993

Les Modes Cohoes Inc. et al.
Leon Maliniak
Maliniak & Ironside

c. (23929)

Procureur général du Québec (Qué.)
François Drolet
Subs. procureur général

DATE DE PRODUCTION 23.12.1993

Eileen Mary Tierney-Hynes
Carla B. Paul
Paul & Boonov

v. (23930)

Adrian Francis Mary Hynes (Man.)
E.S. Goszer
Gould Goszer

FILING DATE 29.12.1993

Peter Edwards
Paul B. Schabas
Blake, Cassels & Graydon

v. (23932)

Solicitor General of Ontario et al. (Ont.)
Michale Code
A.G. of Ontario

FILING DATE 29.12.1993

Anthony James Lunz
T. Huckell
Hiller & Huckell

v. (23919)

Her Majesty The Queen (Alta.)
J. Watson
A.G. of Alberta

FILING DATE 7.1.1994

The Professional Institute of the Public Service of Canada
Peter J. Barnacle
Nelligan Power

v. (23934)

The Senate of Canada et al. (F.C.A.)(Ont.)
Michel Beaudry
Beaudry, Bertrand

FILING DATE 4.1.1994

The Workers' Compensation Board
Robert G. Richards
MacPherson Leslie & Tyerman

v. (23936)

Husky Oil Operations Ltd. et al. (Sask.)
Hleck Kanuka Thuringer

FILING DATE 6.1.1994

R.C.D.
Brenda L. Stothert-Kennedy
Witten Binder

v. (23937)

B.B.D. (Alta.)
Tom W. Achtymichuk
McCuaig Desrochers

FILING DATE 4.1.1994

Harbanse Singh Doman
Marvin R. V. Storrow, Q.C.
Blake, Cassels & Graydon

v. (23938)

Superintendent of Brokers et al. (B.C.)
Joseph J. Arvay, Q.C.
Arvay Finlay

FILING DATE 7.1.1994

Omineca Enterprises Ltd.
Stephen H. Tick
Oreck, Chernoff, Tick & Farber

v. (23939)

Minister of Forests et al (B.C.)
Angela R. Westmacott
Min. of the A.G.

FILING DATE 7.1.1994

Her Majesty The Queen
John C. Tait, Q.C.
Dept. of Justice

v. (23940)

Crown Forest Industries Ltd. (F.C.A.)(Ont.)
Thorsteinssons

FILING DATE 7.1.1994

Manship Holdings Ltd.
E.J. Mockler, Q.C.
Mockler, Allen & Dixon

v. (23941)

Eric A. Muise et al. (N.B.)
E. Emerson Mills
Chase, Mills & Assoc.

FILING DATE 4.1.1994

Jean Boileau
Jean-C. Hébert

c. (23942)

Sa Majesté La Reine (Crim.)(Qué.)
Franco Montesano
Proc. général du Québec

DATE DE PRODUCTION 7.1.1994

Derik Christopher Lord
Donald R. Martin
Martin & MacLeod

v. (23943)

Her Majesty The Queen (B.C.)
A. Slater
Dept. of Justice

FILING DATE 30.12.1993

Kettle River Sawills Ltd. and Elk Bay Logging Ltd.
Ian H. Pitfield
Thorsteinssons

v. (23944)

Her Majesty The Queen (F.C.A.)(Crim.)(Ont.)
Ingeborg E. Lloyd
Dept. of Justice

FILING DATE 10.1.1994

Alexander Krasniuk
R. Ian Histed

v. (23808)

Her Majesty The Queen (Crim.)(Man.)
Gregg Lawlor
A.G. of Manitoba

FILING DATE 29.12.1993

Boleslaw Starzecki
Morris Feuer

v. (23935)

Her Majesty The Queen (Man.)
A.G. of Manitoba

FILING DATE 29.12.1993

Percival Whitley

v. (23890)

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

FILING DATE 13.1.1994

Timothy Erin Mowers

v. (23891)

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

FILING DATE 13.1.1994

Rafeeq Ahmad Khan
Bruce Duncan
Duncan, Fava, Schermbrucker

v. (23947)

Her Majesty The Queen (Ont.)
A.G. of Ontario

FILING DATE 14.1.1994

APPLICATIONS FOR LEAVE SUBMITTED TO COURT SINCE LAST ISSUE

REQUÊTES SOUMISES À LA COUR DEPUIS LA DERNIÈRE PARUTION

JANUARY 12, 1994 / LE 12 JANVIER 1994

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

D.M.S.

v. (23878)

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

NATURE OF THE CASE

Criminal law - Young offenders - First degree murder - Transfer to ordinary court - Application of s. 16 of the *Young Offenders Act*, R.S.C. 1985, c. Y-1 - Whether the Alberta Court of Appeal erred in imposing upon the Young Person the onus of establishing that he was unlikely to be involved in future acts of dangerousness - Whether the Court of Appeal erred in ignoring the findings of fact made by the Youth Court Judge that transfer of the Young Person was not necessary in the interests of protection of the public or rehabilitation of the Young Person - Whether the Court of Appeal ignored or misapprehended the evidence of the psychologist, and ignored the evidence of the psychiatrist whose report the Court requested prior to hearing the appeal - Whether the Court of Appeal erred in considering general deterrence as a relevant criterion in the balancing process required by s. 16(1.1) of the *Young Offenders Act*.

PROCEDURAL HISTORY

November 19, 1992 Provincial Court of Alberta (Jorgensen P.C.J.)	Application by the Crown for a transfer of the Applicant to the ordinary court dismissed
October 4, 1993 Court of Appeal of Alberta (Fraser C.J.A., Côté and McFadyen JJ.A)	Crown's appeal allowed
December 1, 1993 Supreme Court of Canada	Application for leave to appeal filed

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Darryl C.

v. (23852)

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

NATURE OF THE CASE

Criminal law - Young offenders - First degree murder - Transfer to ordinary court - Application of s. 16 of the *Young Offenders Act*, R.S.C. 1985, c. Y-1 - Whether the Ontario Court of Appeal erred in its interpretation of the nature of the burden of proof on a transfer application - Is s. 16.2 a relevant factor in determining whether the Crown had discharged its burden under s. 16(1).

PROCEDURAL HISTORY

January 13, 1993 Youth Court (Guay, Youth Court Judge)	Application for transfer of trial of murder charge to ordinary court dismissed

September 2, 1993
Court of Appeal for Ontario
(Finlayson, Osborne and Doherty [dissenting] JJ.A.)

Appeal allowed: Applicant ordered to stand trial in ordinary court

November 16, 1993
Supreme Court of Canada

Application for leave to appeal filed

Richard A. Godon

v. (23790)

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

NATURE OF THE CASE

Criminal law - Trial - Evidence - Whether the Court of Appeal erred in finding that factual errors made by the trial judge in his charge to the jury were minor and of non consequence? - Whether the Court of Appeal erred in failing to find that the trial judge erred in failing to caution the jury on the dangers of accepting the complainant's evidence in view of her admission to having lied in her original statement to the police? - Whether the Court of Appeal erred in failing to find that the trial judge erred in allowing the Crown to lead evidence of the victim's previous consistent statements? - Whether the Court of Appeal erred in failing to find that the trial judge had erred in failing to leave with the jury any included offences on count 1 (attempted murder) in the indictment? - Whether the Court of Appeal erred in failing to find that the trial judge had erred in leaving with the jury the included offence of assault with a weapon on count 2 (sexual assault) in the indictment?

PROCEDURAL HISTORY

November 20, 1989 District Court of Ontario (Tobias J.)	Conviction: attempted murder and aggravated sexual assault
September 23, 1992 Court of Appeal for Ontario (Grange, Galligan and Doherty JJ.A.)	Appeal against conviction dismissed
October 29, 1993 Supreme Court of Canada	Application for leave to appeal and for an extension of time filed

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E. O. Merrell Baldwin

v. (23737)

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

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Evidence - Right to counsel - Whether the Court of Appeal erred in law in interpreting *R. v. Sussex*, (1924) 1 K.B. 256 according to which justice should not only be done, but manifestly be seen to be done -
Whether the Court of Appeal erred in holding that where a draft prohibition order is attached to an information it cannot affect the judicial mind nor can it raise any reasonable apprehension of bias - Application of *R. v. Brydges*, [1990] 1 S.C.R. 190 - Whether the Court of Appeal erred in law by concluding that a detainee must expressly demonstrate a misunderstanding of his right to immediate free legal advice from duty counsel before a police officer is required to inform him of the existence of such right - Whether the Court of Appeal erred in law by concluding that the police did not have an obligation to advise of the existence of immediate free legal advice from 24-hour duty counsel; Whether the Court of Appeal erred in its interpretation of s. 24(2) of the *Charter* in that it reversed a finding made below in the absence of an error in principle or a finding that was unreasonable.

PROCEDURAL HISTORY

September 5, 1991 Ontario Court (Provincial Division) (Latimer J.)	Conviction: care and control of a motor vehicle while impaired by alcohol contrary to s. 253(a) of the *Criminal Code*
September 15, 1992 Ontario Court (General Division) (Langdon J.)	Appeal allowed; trial verdict set aside
May 28, 1993 Court of Appeal for Ontario (Grange, Finlayson and McKinlay JJ.A.)	Appeal allowed; conviction restored
November 26, 1993 Supreme Court of Canada	Application for leave to appeal filed

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**CORAM: LA FOREST, SOPINKA AND MAJOR JJ. /
LES JUGES LA FOREST, SOPINKA ET MAJOR**

James Alastair Thomas

v. (23879)

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

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Offences - Evidence - Trial by a jury - Uttering a threat to cause death - Possession of a weapon for a purpose dangerous to the public peace - Whether the Saskatchewan Court of Appeal erred by failing to find that the trial record disclosed that there was a breach of the Applicant's rights under sections 8 and 9 of the *Charter* - Whether the Saskatchewan Court of Appeal erred by failing to grant a new trial to determine the appropriate remedy for the said breaches notwithstanding that the Applicant did not raise the issue at trial - Whether the Saskatchewan Court of Appeal erred by failing to find that the trial judge's charge to the jury was deficient.

PROCEDURAL HISTORY

April 7, 1993
Court of Queen's Bench (Mclellan C.Q.B.J.)

Conviction: To utter a threat to cause death; Possession of a weapon for a purpose dangerous to the public peace

October 6, 1993
Court of Appeal for Saskatchewan
(Vancise, Gerwing and Jackson, JJ.A.)

Appeal dismissed

December 3, 1993
Supreme Court of Canada

Application for leave to appeal filed

Shore Boat Builders Ltd.

v. (23868)

Charles J. Moses (B.C.)

NATURE OF THE CASE

International law - Conflict of laws - Recognition and enforcement of foreign judgments - Whether the "real and substantial connection" test for recognition and enforcement of extraprovincial judgments pronounced by the Supreme Court of Canada in *Morguard Investments Ltd. v. De Savoye*, [1990] 3 S.C.R. 1077, should be applied *simpliciter* to default judgments entered by the courts of truly foreign states.

PROCEDURAL HISTORY

May 12, 1992
Supreme Court of British Columbia
(Huddart J.)

Summary trial: Judgment recognizing and enforcing amended default judgment entered in Alaska

September 28, 1993
Court of Appeal for British Columbia
(Macfarlane, Toy and Cumming JJ.A.)

Appeal dismissed

November 26, 1993
Supreme Court of Canada

Application for leave to appeal filed

Canadian Imperial Bank of Commerce

v. (23862)

Sadrudin Alibhai Sayani, Badrudin Sayani, and Nizar Sayani (B.C.)

NATURE OF THE CASE

Commercial law - Banks - Duty of confidentiality between the banker and the customer - Whether the Court of Appeal expanded the "second exception" to the principles established in *Tournier v. National Provincial and Union Bank of England*, [1924] 1 K.B. 461, to the point that the duty is virtually meaningless.

PROCEDURAL HISTORY

November 21, 1991
Supreme Court of British Columbia
(Callaghan J.)

Applicant's claim allowed; Respondents' counterclaim dismissed

September 23, 1993
Court of Appeal for British Columbia
(Macfarlane, Taylor and Wood JJ.A.)

Appeal from dismissal of counterclaim dismissed

November 23, 1993
Supreme Court of Canada

Application for leave to appeal filed

Coalition of Citizens for a Charter Challenge

v. (23911)

Metropolitan Authority, the City of Halifax, the City of Dartmouth, the Town of Bedford and the Municipality of the County of Halifax (N.S.)

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Environmental law - Procedural law - Actions -Applicant bringing *Charter* challenge to the use of municipal waste incineration - Supreme Court of Nova Scotia dismissing Respondent's application and concluding that Applicant had standing to pursue its challenge and need not post security for costs - Whether the Court of Appeal erred in denying the public interest standing of the Applicant - Whether ripeness was a valid criterion on which to preclude the public interest standing of the Applicant - Whether the Court of Appeal failed to apply the necessary tests and analysis for determining public interest standing - Whether the denial of standing to the Applicant as an incorporated public interest litigant in the face of contrary jurisprudence in other jurisdictions requires adjudication in light of the decision in *Irwin Toy Ltd. v. Attorney General of Quebec*, [1989] 1 S.C.R. 927 - Whether the decision of the Court of Appeal requires review with respect to the existence, scope and function of a ripeness doctrine in Canadian constitutional law, in particular as such a doctrine applies to the claims of public interest litigants alleging violations of the Constitution and recognized principles of administrative law constraining governmental action.

PROCEDURAL HISTORY

May 6, 1993
Supreme Court of Nova Scotia
(Glube J. in chambers)

Respondent's application dismissed

October 19, 1993
Court of Appeal of Nova Scotia
(Jones, Chipman and Roscoe JJ.A.)

Appeal allowed

December 20, 1993
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

Edward Anthony Horan

v. (23855)

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

NATURE OF THE CASE

Criminal law - *Canadian Charter of Rights and Freedoms* - Statutes - Interpretation - Evidence - Police - Whether the Courts erred in their definition of the phrase reasonable grounds for arrest and the tests to be imposed where the peace officer deciding to make the arrest is the witness to those alleged reasonable grounds for arrest pursuant to s. 495(1) of the *Criminal Code*, R.S.C. 1985, c. C-46 - Whether the Courts erred in proscribing the rights of the Applicant to adduce evidence which would test the reasonableness of the officer's arrest, contrary to s. 7 of the *Charter*.

PROCEDURAL HISTORY

October 28, 1992
Ontario Court (General Division)
(Valin J.)

Conviction: one count of trafficking in a narcotic and one count of possession for the purpose of trafficking

September 21, 1993
Court of Appeal for Ontario
(Robins, Labrosse and Weiler JJ.A.)

Appeal against conviction dismissed

November 19, 1993
Supreme Court of Canada

Application for leave to appeal filed

Douglas Wayne Orlesky

v. (23888)

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

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Trial - Evidence - Whether it was proven that the Applicant's breath had been analyzed by a "qualified technician" within the meaning of that term in s. 254(1) *Cr.C.* - Whether the Applicant's ss. 8 and 9 *Charter* rights were infringed when he was subjected to breathalyzer tests conducted in the absence of reasonable and probable grounds to believe that he had committed an offence under s. 253 *Cr.C.* - Whether the Applicant was subjected to a screening test that was not carried out "forthwith", thus preventing the application of s. 254(2) *Cr.C.* which would justify denying the Applicant his s. 10(b) *Charter* rights - Whether it was proven that the Applicant's breathalyzer samples were taken at least fifteen minutes apart in accordance with s. 258(1)(c)(ii) *Cr.C.*

PROCEDURAL HISTORY

July 22, 1992 Provincial Court of Alberta (Schollie J.)	Conviction: driving a motor vehicle with prohibited amount of alcohol in blood Acquittal: impaired driving
March 2, 1993 Court of Queen's Bench (Holmes J.)	Summary conviction appeal dismissed
October 6, 1993 Court of Appeal of Alberta (Kerans, Irving and Moore JJ.A.)	Appeal dismissed
December 6, 1993 Supreme Court of Canada	Application for leave to appeal filed

D.E.P.

v. (23892)

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

NATURE OF THE CASE

Criminal law - Offences - Evidence - Sexual assault - Whether the Court of Appeal for Ontario erred in failing to conclude that the reasons for judgment rendered by the learned trial judge amounted to an error in law in that there was a failure to consider and address important aspects of the evidence - Whether the Court of Appeal erred in failing to conclude that the verdict reached by the learned trial judge was unreasonable and not supported by the evidence.

PROCEDURAL HISTORY

November 26, 1991 Ontario Court of Justice (General Division) (Hawkins J.)	Conviction: Two counts of sexual assault

August 30, 1993
Court of Appeal for Ontario
(Brooke, Goodman and Weiler, JJ.A.)

Appeals against conviction and sentence are dismissed

December 9, 1993
Supreme Court of Canada

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

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J.W.S. Jr.

v. (23915)

H. A. D. and R. M. D. (Alta.)

NATURE OF THE CASE

Family law - Custody and access - Adoption - International law - Conflict of laws - Infants -American born child given up for adoption by birth mother without consent of Applicant, the child's father - Alberta courts awarding custody of child to Respondents and allowing them to adopt child - Did trial judge err in not considering the *Convention on the Civil Aspect of Child Abduction (the Hague Convention)* prior to determining questions of custody and guardianship - Did Court of Appeal err in saying Convention did not apply since child was not customarily resident in United States when removed to Canada and that removal was not wrong - Did courts err in not taking into account proper administration of justice in determining issues before them.

PROCEDURAL HISTORY

June 16, 1993 Court of Queen's Bench (Mason J.)	Applicant's application for custody dismissed
October 1, 1993 Court of Appeal of Alberta (Kerans, Hetherington and Conrad JJ.A.)	Appeal dismissed
December 13, 1993 Supreme Court of Canada	Application for leave to appeal filed

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JANUARY 18, 1994 / LE 18 JANVIER 1994

CORAM: LA FOREST, SOPINKA AND MAJOR JJ. / LES JUGES LA FOREST, SOPINKA ET MAJOR

Walter Francis Gillespie

v. (22771)

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

NATURE OF THE CASE

Criminal law - Offences - Defence - Trial - Murder - Jury - Applicant present during murder but did not participate in actual killing - Applicant holding what was believed to be a pail of gasoline or stove oil - Victim's body found partially burned - Trial judge did not charge jury on manslaughter - Whether the Court of Appeal erred in failing to find that the learned trial judge misdirected the jury in failing to direct that the rebuttal evidence was not evidence of the falsity of the alibi and that a disbelief of the alibi is not affirmative proof of the falsity of the alibi - Whether the Court of Appeal erred in failing to find that the trial judge misdirected the jury by failing to leave the possibility of a verdict of manslaughter with them.

PROCEDURAL HISTORY

May 11, 1984 Court of Queen's Bench (Barry J.)	Conviction: Second degree murder contrary to provisions s. 218(1) of the *Criminal Code*. Sentenced to life imprisonment without eligibility for parole for 18 years
February 10, 1988 Court of Appeal of New Brunswick (Angers, Hoyt and Ryan JJ.A.)	Appeal from conviction dismissed; leave to appeal sentence refused
November 23, 1993 Supreme Court of Canada	Application for leave to appeal filed
January 7, 1994 Supreme Court of Canada (La Forest J.S.C.C. in chambers)	Application for an extension of time granted

JANUARY 13, 1994 / LE 13 JANVIER 1994

23745 THOMAS ARTHUR FOSTER - v. - HER MAJESTY THE QUEEN (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 - Evidence - Right to make full answer and defence - Whether the Court of Appeal erred in applying s. 686(1)(b)(iii) of the *Criminal Code* and effectively denying the Applicant the opportunity of making full answer and defence - Whether the Court of Appeal in concluding that the verdict would necessarily have been the same in effect usurped the function of the jury.

23806 LAWRENCE THEODORE SOWA - v. - HER MAJESTY THE QUEEN (Crim.) (Man.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

The application for appointment of counsel and the application for leave to appeal are dismissed.

La demande de nomination d'un avocat et la demande d'autorisation d'appel sont rejetées.

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Trial - Evidence - Sentencing - Dangerous offender - Ineffective representation by trial counsel - Proper effect to be given to prior inconsistent statement - Standard of proof - Constitutional challenge to dangerous offender sentencing provisions of s. 759 of the *Criminal Code*, R.S.C. 1985, c. C-46.

23789 CHARLES BREMNER - v. - HER MAJESTY THE QUEEN (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 - *Canadian Charter of Rights and Freedoms* - Procedural law - Jurisdiction - Appeal - Applicant pleading guilty to offence of operating a motor vehicle while his ability was impaired - Applicant's motion under s. 11(*b*) of the *Charter* dismissed by Provincial Court of Ontario - Whether the Court of Appeal erred in applying s. 686(1)(*b*)(iii) of the *Criminal Code* in refusing to hear the Applicant's appeal from conviction - Whether the Court of Appeal, in applying s. 686(1)(*b*)(iii) of the *Criminal Code*, denied the Applicant the opportunity of making full answer and defence in light of the decision in *R. v. Askov*, [199] S.C.R. - Whether the Court of Appeal had jurisdiction to refuse to hear the Applicant's appeal.

23819 NIVEAQSIE LAISA - v. - HER MAJESTY THE QUEEN (Crim.) (N.W.T.)

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 - Defence - Evidence - Intoxication - Reasonable doubt - Charge to the jury -Whether the Court of Appeal erred in law in holding that the common sense inference that a person intends the natural consequences of his acts and the concept of reasonable doubt as to intention to commit murder are self-excluding - Whether the trial judge erred in failing to instruct the jury specifically on the effect of intoxication on the foreseeability of the likelihood to cause death - Whether the trial judge's two step approach to the defence of intoxication, namely whether the Applicant had the capacity to form the specific intent to murder and whether he did, in fact, form that specific intent, was prejudicial to the Applicant - Whether the trial judge erred in instructing the jury that they could conclude whether an expert witness was competent in his field of expertise - Whether the trial judge's use of the words "recklessness" and "carelessness" interchangeably was prejudicial to the Applicant - Whether the trial judge's charge would lead a jury to believe that probable guilt was sufficient to found a conviction or that they must be able to give an explanation for their doubt.

23702 GUY HENRI GODIN c. LA SOCIÉTÉ CANADIENNE DE LA CROIX-ROUGE et LE PROCUREUR GÉNÉRAL DU QUÉBEC (Qué.)

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

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

The application for leave to appeal is dismissed without costs.

NATURE DE LA CAUSE

Procédure - Procédure civile - Actions - Prescription - Recours collectif - Responsabilité délictuelle et responsabilité contractuelle - Recours collectif visant les hémophiles devenus infectés par le virus du sida suite au traitement de leur maladie à l'aide de produits sanguins contaminés - Rôle des tribunaux à l'égard d'un argument de prescription soulevé au stade préliminaire de la requête en autorisation d'exercer un recours collectif - Le recours du demandeur est-il prescrit? - Les critères prévus à l'art. 1003 du *Code de procédure civile*, L.R.Q. 1977, ch. C-25, sont-ils tous rencontrés?

23714 GILLES BAZINET c. SA MAJESTÉ LA REINE (Crim.) (Qué.)

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

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

NATURE DE LA CAUSE

Droit criminel - Infractions - Preuve - Le juge du procès a-t-il erré en droit en décidant que le témoignage d'un témoin constituait une "déclaration antérieure" du demandeur, au sens de l'article 11 de la Loi sur la preuve, et était ainsi admissible afin de contre-interroger le demandeur? - Le juge du procès a-t-il erré en droit quand, pour décider de la crédibilité du demandeur, il s'est imposé le devoir de choisir entre la version du témoin et celle du demandeur? - Le juge du procès a-t-il erré en trouvant le demandeur coupable d'une infraction dont il n'était pas accusé et dont l'*actus reus* n'a pas été prouvé?

23724/25 WILLIAM GREER c. LA COMMISSION NATIONALE DES LIBÉRATIONS CONDITIONNELLES, KEITH MORGAN et MICHEL FRAPPIER et FRED GIBSON et le PROCUREUR GÉNÉRAL DU CANADA - et entre - STEVE HUTCHINS c. LA COMMISSION NATIONALE DES LIBÉRATIONS CONDITIONNELLES, KEITH MORGAN et MICHEL FRAPPIER et FRED GIBSON et le PROCUREUR GÉNÉRAL DU CANADA (Ont.)

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

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

The application for leave to appeal is dismissed without costs.

NATURE DE LA CAUSE

Droit administratif - Législation - Brefs de prérogative - Extradition - Libération conditionnelle - Textes réglementaires - Interprétation - Droits acquis - "Droit naissant" - La Cour d'appel fédérale a-t-elle erré en décidant que l'alinéa 43c) de la *Loi d'interprétation*, L.R.C. (1985), ch. I-21, ne protège pas les droits en voie d'établissement imminent et inévitable, mais uniquement les droits dont les conditions préalables ont été satisfaites et qui correspondent à une obligation corrélative d'agir au moment de l'abrogation d'une loi? -La Cour d'appel fédérale a-t-elle erré en décidant que l'alinéa 43c) de la *Loi d'interprétation* ne constitue pas une disposition curative qui protège les droits en voie d'établissement imminent et inévitable dans les cas de force majeure où le demandeur a été empêché de satisfaire avant l'abrogation de la loi aux conditions préalables du droit invoqué?

23830 JEAN-LOUIS COUSINEAU et GEORGES BOURBONNIÈRE c. LOUIS E. PETITPAS et IRVING GRUNDMAN (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 - Droit municipal - Contrôle judiciaire - Brefs de prérogative - Interprétation - Fardeau de preuve - Requête en *quo warranto* visant à déposséder les demandeurs de leur charge de conseiller municipal parce qu'ils ont participé aux délibérations du conseil et influencé le vote sur une question à l'égard de laquelle ils avaient un intérêt - Article 362 de la *Loi sur les élections et référendums dans les municipalités*, L.R.Q., ch E-2.2 - Lorsqu'un conseil municipal examine la question de retenir les services d'un avocat pour représenter un conseiller municipal dépossédé d'une charge, l'intérêt du conseiller porte-t-il sur "des remboursements de dépenses" au sens de l'article 362 de la Loi?

23700 URA GREENBAUM v. THE PUBLIC CURATOR OF QUEBEC and HANNA GREENBAUM ENGEL and ABRAHAM GREENBAUM (Qué.)

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 - Procedural law - Appeal - Applicant's de plano appeal on behalf of an incapable person from a judgment authorizing the sale of the incapable's property dismissed summarily on a motion to dismiss for dilatoriness and/or frivolity - Whether the Applicant's fundamental right to a full and fair hearing guaranteed by the Charters was violated - Whether the dismissal without any justifying reasons was arbitrary and discriminatory.

23820 RICHARD VICTOR v. 134154 CANADA INC. (Qué.)

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

Procedural law - Civil procedure - Appeal - Delays - Whether the Court of Appeal erred in law in determining that the grounds raised in the Applicant's motion for permission to file an appeal outside delay did not constitute sufficient reasons pursuant to s. 523 of the *Code of civil procedure* - Whether the Court of Appeal erred in law in determining that the Applicant's incapacity to act as a result of his attorney's hospitalization did not constitute an impossibility to act sooner as contemplated in s. 523 *C.p.c.*

23751 URSULA HECHT v. GERALD ANDREW REID and ROBERT S. WHYTE, Executors of the Estate of JOHN ROLF HECHT; ROBERT S. WHYTE, NORMAN NAPIER, RAYMOND WHEELER and GEORGE SIBORNE, Trustees of the JOHN HECHT MEMORIAL TRUST and the OMEGA TRUST; GERALD ANDREW REID, Trustee of the JOHN HECHT MEMORIAL TRUST; WILLIAM FORZYTH, Trustee of the OMEGA TRUST and the said GERALD ANDREW REID (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

Family law - Property law - Wills and Estates - Executors and administrators - Applicant challenging husband's will on the basis that the testator had not adequately provided for her maintenance and support - Dependants relief legislation as it applies to spouses - Application of *Walker v. McDermott*, [1931] S.C.R. 94 - "Moral duty" test in *Walker* - *Wills Variation Act* R.S.B.C., 1979, c. 435.

23836 NABIL NASSIF and DORIS LAHAM v. YOUSSEF Y. NASSIF (Qué)

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

Family law - Maintenance - Whether the Court of Appeal erred in fact and in law in not granting the Applicants' motion for leave to appeal - Whether the judgment rendered by the Superior Court is an interlocutory judgment which falls under sections 29 and 511 of the *Code of Civil Procedure*?

23848 M.S. v. HER MAJESTY THE QUEEN (Crim.) (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

Canadian Charter of Rights and Freedoms - Criminal law - Offences - Interpretation - Procedural law - Pre-trial procedure - Did information disclose offence known to law? - Did Court of Appeal err in deciding that the word "child" in s. 155(1) of the *Criminal Code* means the relationship between a father and adult daughter? - Whether Court of Appeal erred in failing to hear the constitutional issue that s. 155(1) of the *Criminal Code* violates the applicant's rights under s. 6 of the *Canadian Charter of Rights and Freedoms*, is vague and imprecise regarding the word "child" - Whether Court of Appeal erred in failing to hear the constitutional issues.

23681 LES SERVICES M.L. MARENGÈRE INC. c. Les copropriétaires de la copropriété LA CASERNE & ALS, et le Registrateur de la division d'enregistrement de Montréal (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 des biens - Biens immeubles - Titres de propriété - Interprétation - Immeubles en copropriété - En édictant l'article 2168 du *Code civil du Bas-Canada*, le législateur a-t-il voulu que le cadastre constitue en soi le titre de propriété du propriétaire foncier ou une simple description sans relation avec la contenance? - Les actes juridiques posés par le constructeur, vendeur, déclarant et premier conseil d'administration d'une copropriété immobilière lient-ils les copropriétaires et les conseils d'administration ultérieurs? - Interprétation des articles 441w, 441x et 2168 du *Code civil du Bas-Canada*.

23817 NORMAN ARTHUR GOLD v. GWENDOLYN JOAN GOLD (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

Family law - *Canadian Charter of Rights and Freedoms* - Division of property - Divorce - Marriage agreement - Marriage agreement held to be unfair within the meaning of s. 51 of the *Family Relations Act*, R.S.B.C. 1979, c. 121 - Whether a marriage agreement may be set aside by the Court where it finds that the agreement is not unconscionable and that no undue influence was used to secure its execution - Whether an appellate Court may interfere with the exercise of discretion by a trial Court where that discretion was not exercised according to law - Whether a party not properly able to understand the Court's proceedings due to deafness or hearing impairment has been denied its rights in breach of s. 14 of the *Charter of Rights and Freedoms*.

22997 ROBERT LLOYD JANES v. HER MAJESTY THE QUEEN IN RIGHT OF NEWFOUNDLAND, as represented by THE HONOURABLE MINISTER OF FORESTRY (Nfld.)

CORAM: La Forest, Cory and Iacobucci JJ.

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

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

NATURE OF THE CASE

Procedural law - Costs - Court of Appeal awarding costs to the Applicant - Applicant's bill of costs taxed and allowed by taxing officer - Applicant's appeal to the Supreme Court, Trial Division, dismissed - Whether Court of Appeal erred in upholding the trial judge's decision.

23722 HER MAJESTY THE QUEEN v. GREGORY DONALD MacLEOD (Crim.) (N.S.)

CORAM: La Forest, 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 - Procedural law - Statutes - Interpretation - Appeals - Respondent acquitted on charge of sexual assault - Whether the Court of Appeal erred in refusing to order a new trial by imposing on the Applicant a burden of persuasion inconsistent with the applicable test for review under s. 686(4) of the *Criminal Code*.

23750 JOHN SKENDER and NADA SKENDER v. RANDALL REED ANDERSON and LAUREL LYNN GORDON also known as LAUREL LYNN ANDERSON (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

Property law - Procedural law - Respondents' action for "tree trespass" allowed - Whether the trial judge and the Court of Appeal misdirected themselves on the law in respect to trespass and created by this ruling an unsettling and confusing state of the law of property.

23775 COLIN LEWERY v. THE GOVERNING COUNCIL OF THE SALVATION ARMY IN CANADA (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

Labour law - Procedural law - Applicant's position as "officer" of the Respondent Salvation Army terminated - Applicant bringing action in damages for unlawful dismissal - Whether the Court of Appeal erred in deciding that there is no requirement for a hearing where there is an admitted breach of the Orders and Regulations - Whether the Court of Appeal erred in determining that the Applicant was not an employee of the Salvation Army - Status of religious officers within their organizations and the discretion granted by the courts to religious organizations in the interpretation of their own internal regulations.

JANUARY 20, 1994 / LE 20 JANVIER 1994

23736 John Frankie - v. - The Commissioner of Corrections (F.C.A.) (Crim.)

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 - *Canadian Charter of Rights and Freedoms* - Parole - Prisons - Effect of parole revocation under s. 138 of the *Corrections and Conditional Release Act* - Whether the Court of Appeal erred in distinguishing *Marcotte v. The Deputy General of Canada* [1976], 1 S.C.R. 108, which held that remission cannot be forfeited without specific statutory authorization -Whether the phrase "unexpired portion" in s. 138 of the *Act* means the remainder of the sentence including remission, rather than after giving credit for remission -Whether the Court of Appeal erred in failing to give credit for that part of the Applicant's remission earned while on suspension prior to November 1, 1992, when the *Corrections and Conditional Release Act* was proclaimed into force - Whether the failure to give credit for that part of the Applicant's remission infringed s. 7 of the *Canadian Charter of Rights and Freedoms* in that it was fundamentally unjust - Whether the Court of Appeal erred in holding that "reincarceration" in the French version of the statute could only refer to reincarceration upon revocation of parole rather than upon suspension.

23735 Anthony Fiumara - v. - The Commissioner of Corrections (F.C.A.) (Crim.)

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 - *Canadian Charter of Rights and Freedoms* - Parole - Prisons - Effect of parole revocation under s. 138 of the *Corrections and Conditional Release Act* - Whether the Court of Appeal erred in distinguishing *Marcotte v. The Deputy General of Canada* [1976], 1 S.C.R. 108, which held that remission cannot be forfeited without specific statutory authorization -Whether the phrase "unexpired portion" in s. 138 of the *Act* means the remainder of the sentence including remission, rather than after giving credit for remission -Whether the Court of Appeal erred in failing to give credit for that part of the Applicant's remission earned while on suspension prior to November 1, 1992, when the *Corrections and Conditional Release Act* was proclaimed into force - Whether the failure to give credit for that part of the Applicant's remission infringed s. 7 of the *Canadian Charter of Rights and Freedoms* in that it was fundamentally unjust - Whether the Court of Appeal erred in holding that "reincarceration" in the French version of the statute could only refer to reincarceration upon revocation of parole rather than upon suspension.

23743 THORNHURST CORPORATION, THE SUCCESSOR OF 552045 ONTARIO LTD., KING TRUCK ENGINEERING CANADA LTD. and ANTHONY H. GRAAT v. HARVEY HUBBELL CANADA INC. (Ont.)

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

Commercial law - Legislation - Interpretation - Securities - Creditor & Debtor - Respondent bringing action for the balance of the purchase price of assets sold to the Applicant Corporation secured by a debenture and a general security agreement - Receiver selling security - Whether the Court of Appeal erred in reversing the finding of the trial judge that the Respondent was precluded from proceeding to realize against the Applicant Graat, guarantor, after realizing on its security, where the creditor had failed to give notice to either the debtor or the guarantor under s. 59(5) of the *Personal Property Security Act*, and where the security instrument failed to specifically reserve onto the creditor the right to sue for any deficiency.

23755 SIDNEY L. JAFFE and RUTH JAFFE v. JOE C. MILLER, II, METROPOLITAN TORONTO CONDOMINIUM CORPORATION NO. 539, DANIEL J. KEAR, FRANCES L. GILES, HANK M. SNOW, JR., WILLIAM HATCH, LOUIS R. STARK, CLYDE E. SHOEMAKE, STEPHEN L. BOYLES, ACCREDITED SURETY & CASUALTY CO., TERRENCE SCHMIDT, CHARLES W. GRANT, PATRICIA SILVER, THE ATTORNEY GENERAL OF THE STATE OF FLORIDA, FLORIDA BOARD OF RISK MANAGEMENT, ORMARK ENTERPRISES LTD., PUTNAM COUNTY FLORIDA, SMITH, HANDLER, SMITH, WERNER, JACOBOWITZ & FRIED P.A. KELLY SMITH, CHARLES BAIRD, GARY KELLER, BONNIE ALLENDER, JOHN EUBANKS, TIMM JOHNSEN, GLENN E. NORRIS (Ont.)

CORAM: La Forest, Sopinka and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Torts - Damages - State immunity - Application of *The State Immunity Act*, R.S.C. 1985, c. S-18 - Whether the Court of Appeal erred in law when it held that the s. 6 exception to the general grant of immunity in the *State Immunity Act* applied only to causes of action that arose after the proclamation of that statute - Whether the Court of Appeal erred in law when it held that a foreign state is immune from liability in proceedings relating to law enforcement activities conducted in Canada, which injure Canadians in violation of international law and Canadian law - Whether the Court of Appeal erred when it failed to conclude that the illegal kidnapping and false imprisonment of the Applicant continued up and until his release from Florida prison - Whether the Court of Appeal misapprehended the facts when it held that the pleadings did not disclose the identity of those persons who engaged in the conspiracy to kidnap the Applicant.

21.12.1993

Before / Devant: CORY J.

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

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

Joseph Pilon

v. (23866)

Dr. A. Bouaziz et al. (B.C.)

THE FOLLOWING WAS ORDERED:

The applicant seeks to extend the time for filing the application for leave to appeal to May 26, 1994, some 8 months after the delivery of the Judgment of the Court of Appeal. The Respondent agreed to extend the time to December 31, 1993.

Very special circumstancnes would need to be presented to warrant the granting of such a delay. They are not presented here. The primary reason put forward is the busy schedule of counsel for the applicant. That cannot be the basis for such an extension. However, to ensure that the prospective applicant is not unduly prejudiced, time for filing the application is extended to February 14, 1994.

22.12.1993

Before / Devant: L'HEUREUX-DUBÉ J.

Motion for leave to intervene

Requête en autorisation d'intervention

BY/PAR: Attorney General of Canada and the Attorney General of Manitoba

IN/DANS: Amanda Thomson

v. (23794)

Paul Thomson (Man.)

GRANTED / ACCORDÉE

22.12.1993

Before / Devant: SOPINKA J.

Motion for a stay of execution

Daniel Lewis Gyori

v. (23907)

Her Majesty The Queen (Alta.)

GRANTED / ACCORDÉE

Requête en vue de surseoir à l'exécution

With the consent of the parties.

22.12.1993

Before / Devant: LE JUGE SOPINKA

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

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

Corporation de Notre-Dame de Bonsecours

c. (23014)

Communauté urbaine de Québec et Ville de Québec et al. (Qué.)

GRANTED / ACCORDÉE Délai prorogé au 24.12.1993, dépens aux intimées.

23.12.1993

Before / Devant: SOPINKA J.

Motion to add parties

Requête en jonction de parties

Donald E. Craig

v. (23828)

Rosemary Lahey et al. (N.B.)

DISMISSED / REJETÉE The following was ordered:

The application to be added as a respondent is dismissed, with costs to follow the event of the application for leave. The applications for leave to appeal brought by Donald E. Craig and St. Joseph's Hospital are to be treated as one application by two parties to an action. In the event that leave is granted, the appeal will be heard as one appeal with the applicants as appellants and the respondent on this motion as respondent on the appeal. In view of the foregoing, there is no reason to add the Hospital as a respondent on the motion for leave as requested.

La requête en vue d'être ajouté comme partie intimée est rejetée, avec dépens à suivre l'issue de la demande d'autorisation. Les demandes d'autorisation d'appel présentées par Donald E. Craig et l'hôpital St. Joseph's devront être traitées comme une seule demande par deux parties à une action. Dans le cas où l'autorisation serait accordée, l'appel sera entendu comme un seul appel avec les requérants comme appelants et la partie intimée dans la présente requête comme partie intimée dans l'appel. Compte tenu de ce qui précède, il n'y a aucune raison d'ajouter, tel que demandé, l'hôpital comme partie intimée dans la demande d'autorisation.

23.12.1993

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai de signification et de production du mémoire de l'intimée

International Longshoremen's and Warehousemen's Union et al.

v. (23306)

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

GRANTED / ACCORDÉE Time extended to December 23, 1993.

23.12.1993

Before / Devant: THE REGISTRAR

Motion to amend the style of cause

Requête pour modifier l'intitulé

Canadian Broadcasting Corporation

v. (23596)

Her Majesty The Queen et al. (Sask.)

GRANTED / ACCORDÉE

24.12.1993

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 production de la réponse de l'intimé

Her Majesty The Queen

v. (23843)

Bevin Bervmary McIntosh (Ont.)

GRANTED / ACCORDÉE Time extended to December 20, 1993 *nunc pro tunc*.

30.12.1993

Before / Devant: CORY J.

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

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

MacMillan Bloedel Ltd. et al.

v. (23899)

John Richard Ludbrooke Youell et al. (B.C.)

GRANTED / ACCORDÉE Time extended to December 6, 1993.

5.1.1994

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the case on appeal

Requête en prorogation du délai de signification et de production du dossier d'appel

Lorne François

v. (23677)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE Time extended to December 13, 1993 *nunc pro tunc*.

5.1.1994

Before / Devant: LE REGISTRAIRE

Requête en prorogation du délai de production d'une réponse

Motion to extend the time in which to file a response

L'Industrielle-Alliance, Compagnie d'Assurance sur la Vie

c. (23824)

Réjean Deslauriers et al. (Qué.)

ACCORDÉE / GRANTED Délai prorogé au 20 janvier 1994.

6.1.1994

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file a response

Requête en prorogation du délai de signification et de production d'une réponse

Stella Castaldo

v. (23908)

Dominic Lento et al. (Ont.)

GRANTED / ACCORDÉE Time extended to January 28, 1994.

6.1.1994

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file a factum

Requête en prorogation du délai de signification et de production d'un mémoire

Reinie Jobin et al.

v. (23190)

Her Majesty The Queen (Alta.)

GRANTED / ACCORDÉE Time extended to December 24, 1993.

7.1.1994

Before / Devant: LA FOREST J.

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

Requête en prorogation du délai de signification et de production d'une demande d'autorisation

Walter Francis Gillespie

v. (22771)

Her Majesty The Queen (N.B.)

Heather Perkins-McVey, for the motion.

Henry S. Brown, Q.C., contra.

GRANTED / ACCORDÉE

WAS RESERVED ON 23.11.1993 / PRIS EN DÉLIBÉRÉ LE 23.11.1993

7.1.1994

Before / Devant: LA FOREST J.

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

BY/PAR: Attorney General of Ontario

IN/DANS: Amanda Thomson

v. (23794)

Paul Thomson (Man.)

GRANTED / ACCORDÉE

7.1.1994

Before / Devant: LA FOREST J.

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

Requête en prorogation du délai de signification et de production d'une demande d'autorisation

Anthony James Lunz

v. (23919)

Her Majesty The Queen (Alta.)

GRANTED / ACCORDÉE Time extended to January 7, 1994.

7.1.1994

Before / Devant: LA FOREST J.

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

Requête en prorogation du délai de signification et de production d'une demande d'autorisation

Christopher Correia

v. (23920)

Her Majesty The Queen (Alta.)

GRANTED / ACCORDÉE Time extended to January 14, 1994.

7.1.1994

Before / Devant: LA FOREST J.

Motion for a stay of execution

Requête en vue de surseoir à l'exécution

Helo Enterprises Ltd.

v. (23924)

Ernst & Young Inc. (B.C.)

James Minnies, for the motion.

G. Cameron, contra.

DISMISSED / REJETÉE

7.1.1994

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai de signification et de production du mémoire de l'appelant

Cyril Patrick Prosper

v. (23178)

Her Majesty The Queen (N.S.)

GRANTED / ACCORDÉE

12.1.1994

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file a response

Requête en prorogation du délai de signification et de production d'une réponse

Paul Little et al.

v. (23886)

The Director of Child Welfare (Nfld.)

GRANTED / ACCORDÉE Time extended to January 6, 1994.

12.1.1994

Before / Devant: LE REGISTRAIRE

Requête en prorogation du délai de production d'une réponse

Motion to extend the time in which to file a response

Sa Majesté La Reine

c. (23906)

Renaud Charbonneau (Qué.)

ACCORDÉE / GRANTED Délai prorogé au 4 février 1994.

12.1.1994

Before / Devant: THE CHIEF JUSTICE LAMER

Motion to state a constitutional question

Requête pour énoncer une question constitutionnelle

James Egan et al.

v. (23636)

Her Majesty The Queen in right of Canada (F.C.A.)

GRANTED / ACCORDÉE

1. Does the definition of "spouse" in section 2 of the *Old Age Security Act*, R.S.C. 1985, c. O-9 infringe or deny section 15(1) of the *Canadian Charter of Rights and Freedoms*?

2. If the answer to question 1 is yes, is the infringement or denial demonstrably justified in a free and democratic society pursuant to section 1 of the *Canadian Charter of Rights and Freedoms*?

1. La définition de «conjoint», à l'art. 2 de la *Loi sur la sécurité de la vieillesse*, L.R.C. (1985), ch. O-9, porte-t-elle atteinte au par. 15(1) de la *Charte canadienne des droits et libertés*?

2. Dans l'affirmative, s'agit-il d'une atteinte dont la justification puisse se démontrer dans le cadre d'une société libre et démocratique, conformément à l'article premier de la *Charte canadienne des droits et libertés*?

12.1.1994

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file a response

Requête en prorogation du délai de signification et de production d'une réponse

Tom Strickland et al.

v. (23864)

Ralph Ermel et al. (Sask.)

GRANTED / ACCORDÉE Time extended to January 9, 1994.

12.1.1994

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file a response

Requête en prorogation du délai de signification et de production d'une réponse

Her Majesty The Queen

v. (23860)

Carlton Parks (Ont.)

GRANTED / ACCORDÉE Time extended to February 15, 1994.

12.1.1994

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai de signification et de production du mémoire de l'intimée

Alexander Lee Dickson

v. (23580)

Her Majesty The Queen (Y.T.)

GRANTED / ACCORDÉE

12.1.1994

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai de signification et de production du mémoire des intimés

The Superintendent of Brokers

v. (23107 - 113)

Murray Pezim et al.

and between

The British Columbia Securities Commission

v.

Murray Pezim et al. (B.C.)

GRANTED / ACCORDÉE

12.1.1994

Before / Devant: LE REGISTRAIRE

Requête en prorogation du délai de signification et de production du mémoire d'un intervenant

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

Le Comité Paritaire de l'Industrie de la Chemise et al.

c. (23083)

Jonathan Potash et al. (Qué.)

GRANTED / ACCORDÉE Time extended to January 5, 1994.

12.1.1994

Before / Devant: THE REGISTRAR

Motion to substitute parties

Requête en substitution de parties

Cooper & Lybrand Oydl Inc. et al.

v. (23771)

The Royal Trust Co. (Ont.)

GRANTED / ACCORDÉE

13.1.1994

Before / Devant: THE DEPUTY REGISTRAR

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

Requête en prorogation du délai de signification et de production du mémoire de l'intimée

George Henry Howard

v. (22999)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE

13.1.1994

Before / Devant: THE DEPUTY REGISTRAR

Motion to extend the time in which to serve and file a reply to the respondent's argument

Requête en prorogation du délai de signification et de production d'une réplique au mémoire de l'intimée

Delgamuukw et al.

v. (23799)

Her Majesty The Queen in right of B.C. et al. (B.C.)

GRANTED / ACCORDÉE Time extended to January 18, 1994.

13.1.1994

Before / Devant: THE DEPUTY REGISTRAR

Motion to extend the time in which to serve and file the response of an intervener

Requête en prorogation du délai de signification et de production de la réponse d'un intervenant

Tom Strickland et al.

v. (23864)

Ralph Ermel et al. (Sask.)

GRANTED / ACCORDÉE Time extended to January 11, 1994, *nunc pro tunc*.

13.1.1994

Before / Devant: THE DEPUTY REGISTRAR

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

Requête en prorogation du délai de signification et de production du mémoire de l'intimé

Her Majesty The Queen

v. (23385)

Melvin Lorne Mason (N.S.)

GRANTED / ACCORDÉE Time extended to February 9, 1994.

13.1.1994

Before / Devant: THE DEPUTY REGISTRAR

Motion to extend the time in which to serve and file the intervener's factum on the cross-appeal

Requête en prorogation du délai et de signification du mémoire de l'intervenant dans le pourvoi incident

Richard B. et al.

v. (23298)

Children's Aid Society of Metropolitan Toronto et al. (Ont.)

GRANTED / ACCORDÉE Time extended to February 4, 1994. Costs, if any, for additional disbursements incurred as a result of this intervention, may be dealt with upon application by either party.

13.1.1994

Before / Devant: THE REGISTRAR

Motion to dispense with printing **Requête en dispense d'impression**

Joseph Apsassin et al.

v. (23516)

Her Majesty The Queen in right of Canada (F.C.A.)

GRANTED / ACCORDÉE The following was ordered:

1. The Appellants file one complete set of the Appeal Books and Transcripts as filed in the Federal Court of Appeal for use by the Supreme Court of Canada;

2. The Appellants file, together with their factum, 24 copies of a Supplementary Case on Appeal containing all pleadings, evidence and exhibits that they intend to rely upon, said Supplementary Case on Appeal to include the Formal Orders and complete sets of the Reasons in each Court below;

3. The Respondent file, together with its factum, a Supplementary Case on Appeal containing any additional evidence and exhibits it intends to rely on;

AND BY CONSENT:

IT IS ORDERED that the Appellants file one complete set of the Appeal Books and Transcripts as filed in the Federal Court of Appeal for use by the Supreme Court of Canada;

IT IS FURTHER ORDERED that the Appellants file, together with their factum, 24 copies of a Supplementary Case on Appeal containing all pleadings, evidence and exhibits that they intend to rely upon, said Supplementary Case on Appeal to include the Formal Order and complete sets of the Reasons in each Court below;

IT IS FURTHER ORDERED that the Respondent file, together with its factum, a Supplementary Case on Appeal containing any additional evidence and exhibits it intends to rely on.

13.1.1994

Before / Devant: LA FOREST J.

Motion for leave to intervene

Requête en autorisation d'intervention

BY/PAR: Securities Dealers Society of Ontario

IN/DANS: The Superintendent of Brokers

v. (23107)

Murray Pezim et al.

- and between -

The British Columbia Securities Commission

v. (23113)

Murray Pezim et al. (B.C.)

Bryan Finlay, Q.C. and Philip Anisman, for the motion.

W.G. Burke-Robertson, Q.C., contra.

Consent filed by the respondents.

GRANTED / ACCORDÉE

13.1.1994

Before / Devant: LA FOREST J.

Motion for leave to intervene

Requête en autorisation d'intervention

BY/PAR: Clarence S. Marshall;
Sybil Marshall et al.; and
La Société d'Experts-Conseils Pellemon Inc. et al.

IN/DANS: Rejean Gagnon et al.

v. (23445)

Tina Lucas et al. (Ont.)

Lesli Bisgould, for Clarence Marshall.

Peter A. Daley, for Sybill Marshall et al.

Susan Brown for La Société d'Experts-Conseils Pellemon Inc.

Allan Lutfy, for the appellant.

No one appearing for the respondents.

GRANTED / ACCORDÉE

14.1.1994

Before / Devant: LE REGISTRAIRE ADJOINT

Requête en prorogation du délai de production d'une réponse

Motion to extend the time in which to file a response

Willmor Discount Corp.

c. (23220)

Ville de Vaudreuil (Qué.)

ACCORDÉE / GRANTED Délai prorogé au 6 janvier 1994.

18.1.1994

Before / Devant: THE DEPUTY REGISTRAR

Motion to extend the time in which to serve and file a response

Requête en prorogation du délai de signification et de production d'une réponse

Walter Francis Gillespie

v. (22771)

Her Majesty The Queen (N.B.)

GRANTED / ACCORDÉE Time extended to February 9, 1994.

19.1.1994

Before / Devant: THE DEPUTY REGISTRAR

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

Requête en prorogation du délai de signification et de production d'une réponse

MacMillan Bloedel Ltd. et al.

v. (23899)

John Richard Ludbrooke Youell et al. (B.C.)

GRANTED / ACCORDÉE Time extended to January 31, 1994.

19.1.1994

Before / Devant: THE DEPUTY REGISTRAR

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

Requête en prorogation du délai de signification et de production du dossier d'appel et du mémoire de l'appelant

Roman Swietlinski

v. (23100)

Attorney General of Ontario (Ont.)

GRANTED / ACCORDÉE

19.1.1994

Before / Devant: THE DEPUTY REGISTRAR

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

Requête en prorogation du délai de signification et de production du mémoire de l'intimée

H. Boris Antosko

v. (23282)

Her Majesty The Queen

and between

Stanley F. Tryop

v. (23283)

Her Majesty The Queen

and between

Stanley F. Tryop

v. (23284)

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

GRANTED / ACCORDÉE

19.1.1994

Before / Devant: LA FOREST J.

Motion for leave to cross-examine on affidavit

Requête pour autoriser de contre-interroger sur affidavit

Barrys Ltd.

v. (23877)

Fishermen, Food and Allied Workers' Union (Nfld.)

GRANTED / ACCORDÉE

NOTICES OF APPEAL FILED SINCE LAST ISSUE

AVIS D'APPEL PRODUITS DEPUIS LA DERNIÈRE PARUTION

22.12.1993

Lorne Douglas Blenner-Hassett

v. (23923)

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

AS OF RIGHT

29.12.1993

Gordon Edward Allan Waddell

v. (23925)

The United States of America (Crim.)(B.C.)

AS OF RIGHT

23.12.1993

Victor Francisco Clemente

v. (23931)

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

AS OF RIGHT

7.1.1994

Ville de Beauport

c. (23753)

Caisse populaire de Charlesbourg (Qué.)

NOTICE OF CROSS-APPEAL /
AVIS DE POURVOI INCIDENT

4.1.1994

Brent Blair Brown

v. (23479)

Her Majesty The Queen (Man.)

4.1.1994

George Weldon Adams

v. (23615)

Her Majesty The Queen (Qué.)

6.1.1994

Nasir Ahmed Fiqia

v. (23945)

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

AS OF RIGHT

BY/PAR: Attorney General of Canada
Attorney General of Ontario

IN/DANS: **Amanda Louise Thomson**

v. (23794)

Paul Thomson (Man.)

JANUARY 20, 1994 / LE 20 JANVIER 1994

23424 **SA MAJESTÉ LA REINE c. COLETTE PÉTEL** (Crim.) (Qué.)

CORAM: Le Juge en Chef et les juges La Forest, L'Heureux-Dubé, Sopinka, Gonthier, Cory, McLachlin, Iacobucci et Major

L'appel est rejeté et l'ordonnance de nouveau procès est confirmée. Les juges La Forest, L'Heureux-Dubé, Gonthier et Major sont dissidents.

The appeal is dismissed and the order for a new trial is confirmed, LaForest, L'Heureux-Dubé, Gonthier and Major JJ. dissenting.

Sa Majesté la Reine c. Colette Pétel **(Crim.)(Qué.) (23424)**
Répertorié: R. *c.* Pétel / Indexed as: R. *v.* Pétel
Jugement rendu le 20 janvier 1994 / Judgment rendered January 20, 1994

Présents: Le juge en chef Lamer et les juges La Forest, L'Heureux-Dubé, Sopinka, Gonthier, Cory, McLachlin, Iacobucci et Major.

Droit criminel -- Légitime défense -- Éléments de la légitime défense -- Directives au jury -- Question du jury -- Le juge du procès a-t-il commis une erreur dans sa réponse en différenciant les menaces antérieures des menaces proférées contre l'accusée le soir de l'incident et en reliant ces menaces antérieures uniquement à l'existence d'une attaque? -- Code criminel, L.R.C. (1985), ch. C-46, art. 34(2), 265(1).

L'accusée a été inculpée du meurtre au second degré de R. R et E s'adonnaient au trafic de stupéfiants. Au procès, l'accusée a raconté la vie infernale qu'entraînaient la présence de E -- le concubin de la fille de l'accusée -- dans sa maison et le trafic auquel il se livrait. Elle a indiqué qu'il était constamment en colère et qu'il la menaçait souvent. L'accusée a déménagé pour mettre fin à la présence de E dans sa maison mais sans succès puisque ce dernier a continué à se rendre chez elle pour y exercer ses activités illégales. D'après l'accusée, le soir du crime, E s'est présenté chez elle avec un revolver et de la cocaïne, et il lui a demandé de dissimuler l'arme. Il l'a forcée à peser de la cocaïne, puis il lui a laissé entendre qu'il la tuerait, ainsi que sa fille et sa petite-fille. Peu après, la fille de l'accusée est arrivée en compagnie de R. C'est à ce moment que l'accusée a consommé un peu de drogue, puis est allée chercher l'arme qu'elle avait cachée dans la salle de bains. Elle a alors fait feu sur E et voyant que R s'élançait sur elle, elle a aussi fait feu sur lui. E a survécu mais R est décédé. Dans ses directives au jury, le juge du procès a expliqué le droit relatif à la légitime défense et a résumé les principaux éléments de la preuve qui pouvaient étayer cette défense. À la suite d'une question du jury, le juge a indiqué que le geste ou la menace donnant lieu à la légitime défense doit avoir eu lieu le soir du crime et que les menaces ou les actes antérieurs ne sont pertinents que pour évaluer l'attaque le soir du crime. L'accusée a été reconnue coupable de meurtre au second degré. La Cour d'appel a accueilli l'appel de l'accusée et ordonné la tenue d'un nouveau procès. La cour, à la majorité, a estimé que le juge du procès a commis une erreur en différenciant, dans sa réponse à la question du jury, les menaces antérieures des menaces proférées le soir de l'incident et en reliant les menaces antérieures uniquement à l'existence d'une attaque.

Arrêt (les juges La Forest, L'Heureux-Dubé, Gonthier et Major sont dissidents): Le pourvoi est rejeté.

(1) *Légitime défence: principes applicables*

Le paragraphe 34(2) du *Code criminel* fait ressortir les trois éléments constitutifs de la légitime défense lorsque, comme en l'espèce, la victime est décédée: (1) l'existence d'une attaque illégale; (2) l'appréhension raisonnable d'un danger de mort ou de lésions corporelles graves, et (3) la croyance raisonnable qu'on ne peut s'en sortir autrement qu'en tuant l'agresseur. Dans les trois cas, le jury doit chercher à déterminer quelle était la perception des faits pertinents par l'accusée et si cette perception était raisonnable. Il s'agit d'une évaluation objective. L'erreur honnête mais raisonnable relativement à l'existence d'une attaque est donc permise. Il faut éviter de faire de l'existence de l'attaque une sorte de condition préalable à l'exercice de la légitime défense qui doit s'apprécier en faisant abstraction de la perception de l'accusée. C'est l'état d'esprit de l'accusée qui est pertinent et qu'il faut examiner. La question que le jury doit se poser n'est pas de savoir si «l'accusée a été illégalement attaquée», mais plutôt si «l'accusée a raisonnablement cru, dans les circonstances, qu'on l'attaquait illégalement». Il n'y a pas non plus d'exigence formelle que le danger soit imminent. L'imminence n'est qu'un des facteurs que le jury doit évaluer pour déterminer si l'accusée avait une appréhension raisonnable du danger et une croyance raisonnable de ne pas pouvoir s'en sortir autrement qu'en tuant son agresseur.

(2) *Légitime défense: directives au jury*

Le juge en chef Lamer et les juges Sopinka, Cory, McLachlin et Iacobucci: Le juge du procès a commis une erreur en limitant sa réponse à la question du jury à un seul des éléments de la légitime défense, soit l'existence d'une attaque. Premièrement, cette réponse laisse croire que la seule pertinence des menaces antérieures au soir du crime est de permettre au jury de déterminer s'il y a réellement eu une attaque (en l'espèce, des menaces de mort) ce soir-là et si l'assaillant était en mesure d'exécuter ces menaces. Cela a détourné le jury de la véritable question qu'il devait examiner, c'est-à-dire la croyance raisonnable de l'accusée à l'existence d'une attaque. Mettre l'accent sur les actes des victimes plutôt que sur l'état d'esprit de l'accusée a pour effet de retirer à cette dernière le bénéfice de toute erreur, si raisonnable soit-elle. Deuxièmement, même s'il est vrai que les menaces antérieures peuvent permettre au jury de décider si des menaces ont été proférées le soir du crime, elles sont également très pertinentes pour déterminer ce que croyait l'accusée, non seulement quant à l'existence des menaces, mais aussi quant à son appréhension d'un danger de mort ou de lésions corporelles graves et à sa croyance à la nécessité du recours à la force meurtrière. En omettant de mentionner ces deux éléments dans sa réponse, le juge du procès a sérieusement limité la pertinence des menaces antérieures et a pu entraîner le jury à écarter tout le climat de terreur qui, selon l'accusée, régnait dans sa maison. Ces menaces font partie intégrante des circonstances qui ont pu fonder la perception de l'accusée. Or, il est évident qu'on ne saurait apprécier la conduite qu'aurait eue une personne raisonnable en faisant abstraction de ces circonstances cruciales. En fait, en expliquant à quoi pouvaient servir les menaces antérieures au soir du crime, le juge du procès aurait dû faire référence non seulement à l'al. 265(1)*b*) du *Code*, mais aussi et surtout au par. 34(2).

Les juges La Forest, L'Heureux-Dubé, Gonthier et Major (dissidents): La réponse du juge ne comportait aucune erreur. Cette réponse n'écarte pas l'élément très important de la croyance de l'accusée. Bien qu'il n'ait pas expliqué d'une façon détaillée cette question lors de sa réponse, il a insisté sur chacun des éléments de la légitime défense en relisant à trois reprises l'al. 265(1)*b*) du *Code*. Lors de ses directives générales, le juge du procès en avait déjà fait la lecture pour ensuite donner des explications claires et complètes sur le critère essentiel de l'état d'esprit de l'accusée au moment où elle a causé la mort, y compris son appréhension de la mort ou d'une lésion corporelle grave auxquelles elle ne pouvait se soustraire que par la force qu'elle a employée. Le dessein dont il est question dans la réponse du juge ne pouvait être que le dessein de tuer de la part de la victime et son commentaire sur la croyance pour des motifs raisonnables que la victime était en mesure actuelle d'accomplir ce dessein ne pouvait signifier autre chose que la croyance de l'accusée que la victime était en mesure de réussir à tuer l'accusée, ne laissant à celle-ci que l'alternative d'agir la première. On ne peut donc conclure que la réponse du juge a pu être comprise par le jury ou a pu l'amener à se prononcer autrement qu'en fonction d'une croyance raisonnable de l'accusée d'un danger de mort auquel elle ne pouvait obvier qu'en tuant l'agresseur.

POURVOI contre un arrêt de la Cour d'appel du Québec (1993), 53 Q.A.C. 253, 78 C.C.C. (3d) 543, qui a accueilli l'appel interjeté par l'accusée contre sa déclaration de culpabilité pour meurtre et ordonné un nouveau procès. Pourvoi rejeté, les juges La Forest, L'Heureux-Dubé, Gonthier et Major sont dissidents.

Claude Chartrand et *Claude Labrecque*, pour l'appelante.

Josée Ferrari, pour l'intimée.

Procureur de l'appelante: Claude Chartrand, Longueuil.

Procureurs de l'intimée: Rolland, Pariseau, Olivier & St-Louis, Montréal.

Present: Lamer C.J. and La Forest, L'Heureux-Dubé, Sopinka, Gonthier, Cory, McLachlin, Iacobucci and Major JJ.

Criminal law -- Self-defence -- Elements of self-defence -- Charge to jury -- Question from jury -- Whether trial judge erred in his answer in differentiating between previous threats and threats made against accused on evening of incident and in relating previous threats only to existence of assault -- Criminal Code, R.S.C., 1985, c. C-46, ss. 34(2), 265(1).

The accused was charged with the second degree murder of R. R and E were involved in drug trafficking. At trial, the accused described the terrible existence caused by the presence of E -- with whom the accused's daughter was living -- in her house and by his drug trafficking. She said that he was always angry and threatened her frequently. The accused moved in order to put an end to E's presence in her house, but this was unsuccessful, as he continued to go to her home to conduct his illegal activities. According to the accused, on the evening of the crime, E went to her home with a revolver and cocaine and asked her to hide the weapon. He forced her to weigh some cocaine and then suggested he would kill her, together with her daughter and granddaughter. Shortly afterwards the accused's daughter arrived accompanied by R. At this point the accused consumed a small amount of drugs and she then went to get the weapon she had hidden in the bathroom. She fired at E and seeing that R was lunging at her, she also fired at him. E survived but R died. In his charge to the jury, the trial judge explained the law of self-defence and summarized the main points in the evidence which could support this defence. In reply to a question from the jury, the judge indicated that the act or threat giving rise to self-defence must have taken place on the evening of the crime, and that the previous threats or acts are only relevant in assessing the assault on the evening of the crime. The accused was convicted of second degree murder. The Court of Appeal allowed the accused's appeal and ordered a new trial. In a majority judgment the court held that the trial judge erred in his answer to the jury's question in differentiating the previous threats from the threats made on the evening of the incident and in relating the previous threats only to the existence of an assault.

Held (La Forest, L'Heureux-Dubé, Gonthier and Major JJ. dissenting): The appeal should be dismissed.

(1) *Self-defence: applicable principles*

It can be seen from s. 34(2) of the *Criminal Code* that there are three constituent elements of self-defence when, as here, the victim has died: (1) the existence of an unlawful assault; (2) a reasonable apprehension of a risk of death or grievous bodily harm; and (3) a reasonable belief that it is not possible to preserve oneself from harm except by killing the attacker. In all three cases the jury must seek to determine how the accused perceived the relevant facts and whether that perception was reasonable. This is an objective determination. An honest but reasonable mistake as to the existence of an assault is therefore permitted. The existence of an assault must not be made a kind of prerequisite for the exercise of self-defence to be assessed without regard to the perception of the accused. It is the accused's state of mind that is relevant and must be examined. The question that the jury must ask itself is not whether "the accused was unlawfully

assaulted" but rather whether "the accused reasonably believed, in the circumstances, that she was being unlawfully assaulted". Nor is there a formal requirement that the danger be imminent. Imminence is only one of the factors which the jury should weigh in determining whether the accused had a reasonable apprehension of danger and a reasonable belief that she could not extricate herself otherwise than by killing the attacker.

(2) *Self-defence: charge to jury*

Per Lamer C.J. and Sopinka, Cory, McLachlin and Iacobucci JJ.: The trial judge erred in limiting his answer to the jury's question to only one of the elements of self-defence, namely the existence of an assault. First, this answer suggests that the only relevance of the threats prior to the evening of the crime was in enabling the jury to determine whether there had actually been an assault (in this case, death threats) that evening and whether the assailant was in a position to carry out those threats. This diverted the jury from the question it really should have been considering, namely the reasonable belief of the accused in the existence of an assault. Emphasizing the victims' acts rather than the accused's state of mind has the effect of depriving the latter of the benefit of any error, however reasonable. Secondly, although it is true that the previous threats may help the jury to decide whether threats were made on the evening of the crime, they are also very relevant in determining what the accused believed, not only concerning the existence of the threats, but also concerning her apprehension of a risk of death or grievous bodily harm and her belief in the need to use deadly force. By failing to mention these two elements in his answer, the trial judge seriously limited the relevance of the previous threats and might have led the jury to disregard the entire atmosphere of terror which the accused said pervaded her house. Those threats form an integral part of the circumstances on which the perception of the accused might have been based. It is clear that the way in which a reasonable person would have acted cannot be assessed without taking into account these crucial circumstances. In explaining how the threats prior to the evening of the crime could be used the trial judge should actually have referred not only to s. 265(1)(*b*) of the *Code* but also, most importantly, to s. 34(2).

Per La Forest, L'Heureux-Dubé, Gonthier and Major JJ. (dissenting): The judge's answer contained no error. It did not overlook the very important element of the accused's belief. While he did not elaborate on this point in his answer, he emphasized each of the elements of self-defence by three times re-reading s. 265(1)(*b*) of the *Code*. The trial judge had already read this paragraph in his general charge and gone on to give clear and complete explanations of the essential criterion of the accused's state of mind at the time she caused the death, including her apprehension of death or grievous bodily harm from which she could not preserve herself except by the force she used. The purpose referred to in the judge's answer could only be the purpose to kill on the part of the victim, and his comment on the belief on reasonable grounds that the victim had present ability to effect this purpose could mean nothing other than the accused's belief that the victim was capable of killing the accused, leaving her no alternative but to act first. Consequently, one cannot conclude that the judge's answer could have been understood by the jury or could have led it to make a finding other than on the basis of a reasonable belief by the accused in a danger of death which she could not avoid except by killing her attacker.

APPEAL from a judgment of the Quebec Court of Appeal (1993), 53 Q.A.C. 253, 78 C.C.C. (3d) 543, allowing the accused's appeal from her conviction for murder and ordering a new trial. Appeal dismissed, La Forest, L'Heureux-Dubé, Gonthier and Major JJ. dissenting.

Claude Chartrand and *Claude Labrecque*, for the appellant.

Josée Ferrari, for the respondent.

Solicitor for the appellant: Claude Chartrand, Longueuil.

Solicitors for the respondent: Rolland, Pariseau, Olivier & St-Louis, Montréal.

WEEKLY AGENDA / ORDRE DU JOUR DE LA SEMAINE

AGENDA for the week beginning January 24, 1994.
ORDRE DU JOUR pour la semaine commençant le 24 janvier 1994.

Date of Hearing/ Date d'audition	NO.	Case Number and Name/ Numéro et nom de la cause
24/01/94 to/au 25/01/94	12	Canadian Broadcasting Corporation et al. v. Lucien Dagenais, et al. (Ont.) - and between - Canadian Broadcasting Corporation v. Her Majesty The Queen et al. (Sask.)(23403 - 23596)
26/01/94	1	Her Majesty The Queen v. Robert Howard Burns (Crim.)(B.C.)(23115)
26/01/94	14	Amanda Louise Thomson v. Paul Thomson (Man.)(23794)
27/01/94	21	Le Comité paritaire de l'industrie de la chemise, et al. c. Jonathan Potash et entre Le Comité paritaire de l'industrie de la chemise et al. c. Sélection Milton (Qué.)(23083)
28/01/94	13	Lori Ann Willick v. Bryan Douglas Albert Willick (Sask.)(23141)
28/01/94	17	Gregory William Pittman v. Her Majesty The Queen (Crim.)(N.S.)(23436)

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.

23403 CANADIAN BROADCASTING CORPORATION and THE NATIONAL FILM BOARD OF CANADA v. LUCIEN DAGENAIS, LEOPOLD MONETTE, JOSEPH DUGAS and ROBERT RADFORD

Canadian Charter of Rights and Freedoms - Administrative law - Prerogative writs - Injunction - Broadcasting - Right of an accused to a fair trial v. Freedom of expression - Appellant CBC restrained from broadcasting "The Boys of St Vincent" until the completion of the criminal trials of the Respondents.

The Appellant Canadian Broadcasting Corporation (CBC) proposed to broadcast a four-hour mini-series entitled "The Boys of St Vincent", a fictional account dealing with sexual and physical abuse of children in a Catholic institution. The broadcast was to be in two two-hour segments, one on Sunday evening, December 6, 1992, and the other on the following evening. The mini-series had been given a great deal of pre-airing publicity and had been exhibited to film critics.

On December 3, 1992, in the course of the Respondent Dagenais' trial, Justice Soublière dismissed defence counsel's application requesting that he charge the jury on December 4, instead of on Monday 7, as was scheduled, or that he sequester the jury over the weekend of December 5 and 6, 1992. Justice Soublière declined to do either, but directed the jury not to watch the broadcast.

On December 4, 1992, the Respondents applied for an interlocutory injunction restraining CBC from broadcasting "The Boys of St Vincent" and from publishing in any media any information relating to the proposed broadcast of that programme. The Ontario Court of Justice granted the Respondents an interlocutory injunction prohibiting the broadcast of "The Boys of St Vincent" anywhere in Canada until the completion of the criminal trials of the Respondents. The Court of Appeal allowed the Respondents' appeal in part, limiting the scope of the injunction to Ontario and CBMT-TV in Montreal, and dismissing all other orders granted by the Ontario Court of Justice.

The following appeal raises the following issues:

1. Whether prior restraint on publication, by a judge in the exercise of his equitable or statutory discretion, on the basis of speculation about possible future impact of the publication on potential jurors in pending criminal trials infringes "the freedom of expression and freedom of the press and other media of communication" guaranteed by s. 2(b) of the *Canadian Charter of Rights and Freedoms*?

2. If the answer to Question 1 is yes, is such prior restraint a reasonable limit prescribed by law as is demonstrably justified in a free and democratic society pursuant to s. 1 of the *Canadian Charter of Rights and Freedoms*?

Origin of the case:	Ontario
File No.:	23403
Judgment of the Court of Appeal:	December 5, 1992
Counsel:	W. Ian C. Binnie, Q.C. for the Appellants Peter A.E. Shoniker, for the Respondents

23403 LA SOCIÉTÉ RADIO-CANADA ET L'OFFICE NATIONAL DU FILM DU CANADA c. LUCIEN DAGENAIS, LEOPOLD MONETTE, JOSEPH DUGAS et ROBERT RADFORD

Charte canadienne des droits et libertés - Droit administratif - Brefs de prérogative - Injonction - Télédiffusion - Droit de l'accusé à un procès juste par opposition à liberté d'expression - Interdiction à la Société Radio-Canada, appelante en l'espèce, de télédiffuser «The Boys of St Vincent» tant que les procès au criminel des intimés ne seront pas terminés.

La Société Radio-Canada (S.R.C.), appelante en l'espèce, se proposait de télédiffuser une mini-série de quatre heures intitulée «The Boys of St Vincent», un compte rendu fictif portant sur les abus sexuels et physiques d'enfants dans une maison d'enseignement catholique. La télédiffusion devait se dérouler en deux parties de deux heures chacune, l'une le dimanche soir 6 décembre 1992 et l'autre le lendemain soir. La mini-série avait fait l'objet de beaucoup de publicité avant la télédiffusion et avait été montrée à des critiques de films.

Le 3 décembre 1992, au cours du procès de l'intimé Dagenais, le juge Soublière a rejeté la demande de l'avocat de la défense qu'il fasse l'exposé au jury le 4 décembre au lieu du lundi 7, comme il était prévu, ou qu'il isole le jury la fin de semaine des 5 et 6 décembre 1992. Le juge Soublière a refusé de faire l'un ou l'autre, mais a ordonné au jury de ne pas regarder l'émission.

Le 4 décembre 1992, les intimés ont demandé une injonction interlocutoire interdisant à la S.R.C. de télédiffuser «The Boys of St Vincent» et de publier dans les médias tout renseignement se rapportant à la télédiffusion proposée de ce programme. La Cour de justice de l'Ontario a accordé aux intimés une injonction interlocutoire interdisant la télédiffusion de «The Boys of St Vincent» partout au Canada, tant que les procès au criminel des intimés ne seraient pas terminés. La Cour d'appel a accueilli l'appel des intimés en partie, limitant la portée de l'injonction à l'Ontario et à la station CBMT-TV de Montréal et rejetant toutes les autres ordonnances rendues par la Cour de justice de l'Ontario.

L'appel soulève les questions suivantes :

1. L'interdiction antérieure de publication, par un juge dans l'exercice de son pouvoir discrétionnaire en common law ou en equity, fondée sur des spéculations concernant l'incidence future possible de la publication sur les jurés éventuels dans les instances criminelles en cours, viole-t-elle «la liberté d'expression, y compris la liberté de la presse et des autres moyens de communication» garanties par l'al. 2*b)* de la *Charte canadienne des droits et libertés*?

2. Si la réponse à la question 1 est affirmative, cette interdiction antérieure constitue-t-elle une limite raisonnable, prévue par une règle de droit, dont la justification peut se démontrer dans le cadre d'une société juste et démocratique, aux termes de l'article premier de la *Charte canadienne des droits et libertés*?

Origine : Ontario

N° de greffe : 23403

Arrêt de la Cour d'appel : Le 5 décembre 1992

Avocats : W. Ian C. Binnie, c.r., pour les appelantes
Peter A. E. Shoniker, pour les intimés

23596 THE CANADIAN BROADCASTING CORPORATION v. HER MAJESTY THE QUEEN & T. S., and the alleged victims, Doug McConachie, Armadale Communications, Canadian Press, Ronald Sterling, Linda Sterling, Travis Sterling, James Elstad, Darryl Ford, Edward Revesz, Darren Sabourin and John Popowich

Criminal law - *Canadian Charter of Rights and Freedoms* - Procedural law - Young offenders - Evidence - Appeals - Order prohibiting the publication of evidence until all related trials completed granted by Provincial Youth Court of Saskatchewan - Whether there is right of appeal for the media affected by an order restricting publication of evidence at a trial from the decision which restricts publication - Principles applicable in balancing the right of the media guaranteed by s. 2(*b*) of the *Charter* against the interests of witnesses and other third parties which might be affected by publication - Whether the Provincial Youth Court judge erred in restricting the media's right to publish the evidence at the trial of the accused Respondent, T.S.

The Respondent T.S. was charged under the *Young Offenders' Act*, R.S.C. 1985, c. Y-1, that, between May 1, 1988, and July 31, 1991, he committed sexual assaults on two children, touched them for sexual purposes, confined them, threatened to use a weapon on one of them and uttered a threat to cause death to one of them. The Respondent Crown made an application under s. 486 of the *Criminal Code*, R.S.C. 1985, c. C-46, and s. 39 of the *Young Offenders Act* for either an order of non-publication of any of the evidence or an order of non-publication of evidence relating to the allegations of the children. The Appellant and the Respondent Armadale Communications Ltd., media representatives, sought leave to make representations in relation to those issues. The trial of T.S. was the first of a series of related trials, involving the same complainants, the other accused being the other Respondents, and the only one where a request for a restriction on publication of evidence was made. A *voir dire* was held and Lavoie J. of the Provincial Youth Court ruled that media representatives could be present but were not permitted to cross-examine the witnesses. They were allowed to submit oral or written arguments but were not given leave to call *viva voce* evidence or to file affidavit evidence. However, they were allowed to re-apply to the court for such leave at any stage of the *voir dire*. The status they were given was only in relation to the application under s. 486 of the *Criminal Code* and s. 39 of the *Young Offenders' Act* to exclude the public from the court room. Lavoie J. granted the application and ordered the prohibition of all publication of evidence from the trial until all related trials were completed. The Appellant appealed the decision on the *voir dire* to the Court of Appeal for Saskatchewan which ruled that it did not have jurisdiction to hear the appeal. The reasons of the Court of Appeal are to be "delivered in due course".

Origin of the case:	Saskatchewan
File No.:	23596
Judgment of the Court of Appeal:	March 11, 1993
Counsel:	Bryan Salte for the Appellant Graeme Mitchell, for the Respondent

23596 LA SOCIÉTÉ RADIO-CANADA c. SA MAJESTÉ LA REINE et T. S. et les présumées victimes, Doug McConachie, Armadale Communications, Presse canadienne, Ronald Sterling, Linda Sterling, Travis Sterling, James Elstad, Darryl Ford, Edward Revesz, Darren Sabourin et John Popowich

Droit criminel - *Charte canadienne des droits et libertés* - Droit procédural - Jeunes contrevenants - Preuve - Appels - Ordonnance interdisant la publication des témoignages jusqu'à ce que soient terminés tous les procès connexes, accordée par la Provincial Youth Court de la Saskatchewan - Les médias qui sont touchés par l'ordonnance restreignant la publication des témoignages donnés au procès ont-ils un droit d'appel contre la décision qui restreint la publication? - Les principes applicables pour évaluer le droit des médias que confère l'al. 2*b*) de la *Charte* par rapport au droit des témoins et des tiers susceptibles d'être touchés par la publication - Le juge de la Provincial Youth Court a-t-il commis une erreur lorsqu'il a restreint le droit des médias de publier les témoignages au procès de l'accusé intimé, T.S.?

L'intimé T.S. a été accusé en vertu de la *Loi sur les jeunes contrevenants*, L.R.C. (1985), ch. Y-1, d'avoir entre le 1er mai 1988 et le 31 juillet 1991, commis des agressions sexuelles contre deux enfants, d'avoir fait des attouchements à des fins sexuelles, de les avoir enfermés, d'avoir menacé d'utiliser une arme contre l'un d'entre eux et d'avoir menacé de tuer l'un d'entre eux. Le ministère public intimé a présenté une demande aux termes de l'art. 486 du *Code criminel*, L.R.C. (1985), ch. C-46 et de l'art. 39 de la *Loi sur les jeunes contrevenants* en vue d'obtenir une ordonnance de non publication des témoignages ou une ordonnance de non publication des témoignages relatifs aux allégations des enfants. L'appelante et l'intimée Armadale Communications Ltd., les représentantes des médias, ont demandé l'autorisation de présenter des arguments relativement à ces questions. Le procès de T.S. était le premier d'une série de procès connexes, impliquant les mêmes plaignants, les autres accusés étant les autres intimés, et le seul où a été présenté une demande de restriction en matière de publication des témoignages. Un voir dire a été tenu et le juge Lavoie de la Provincial Youth Court a conclu que les représentants des médias pouvaient être présents mais n'étaient pas autorisés de contre-interroger les témoins. Ils ont été autorisés à présenter des arguments par écrit ou verbalement mais n'ont pas été autorisés à citer des témoins ou à présenter une preuve par affidavit. Toutefois, ils ont été autorisés à demander à nouveau à la cour une telle permission à n'importe qu'elle étape du voir dire. Le statut qu'ils ont obtenu était seulement relatif à la demande présentée aux termes de l'art. 486 du *Code criminel* et de l'art. 39 de la *Loi sur les jeunes contrevenants* visant à exclure le public de la salle d'audience. Le juge Lavoie a fait droit à la demande et a ordonné l'interdiction de toute publication de témoignages du procès jusqu'à ce que tous les procès connexes soient terminés. L'appelante a interjeté appel contre la décision du voir dire à la Cour d'appel de la Saskatchewan qui a jugé qu'elle n'était pas compétente pour entendre l'appel. Les motifs de la Cour d'appel seront «prononcés en temps opportun».

Origine :	Saskatchewan
No du greffe :	23596
Arrêt de la Cour d'appel :	11 mars 1993
Avocats :	Bryan Salte pour l'appelante Graeme Mitchell, pour l'intimé

23115 HER MAJESTY THE QUEEN v. ROBERT HOWARD BURNS

Criminal law - Offences - Evidence - Credibility of complainant.

The Respondent was charged with one count of indecent assault and one count of sexual assault. The complainant was born on August 27, 1971. She was between 9 and 12 during the first period charged and between 12 and 16 years during the second period. Her mother died when she was four years of age and her father, an admitted alcoholic, attempted to care for her but she lived in a foster home for more than six years. The Respondent and the complainant's father are friends and visit one another occasionally.

In June 1987, the complainant was charged with sexually abusing five young boys while baby-sitting them. As result of these charges, she received counselling and psychological care. She disclosed at that time that she also had been sexually abused. She also disclosed having been sexually assaulted by her stepbrother. She first said that her stepbrother had sexually assaulted her 50 to 60 times, but later reduced that number to 20 and alleged that it was the Respondent who assaulted her 50 to 60 times.

At trial, she testified that, in or about 1980, the Respondent had driven her to a side road and had indecently assaulted her. She also testified that acts of sexual touching without her consent continued when the Respondent was alone with the complainant in her father's mobile home. The complainant also referred specifically to two other similar incidents. In January 1987, the complainant stated that, while alone in the mobile home, the Respondent entered the home and had sexual intercourse with her without her consent.

During the pre-charge period, the Respondent was interviewed several times by the police during which he denied any misconduct with the complainant. He consented to a polygraph test which the police say he failed. After that, and in the course of long post-polygraph interview, the Respondent admitted to one incident of consensual sexual intercourse with the complainant, when she was either 15 or 16 years. The Respondent did not testify at trial.

The trial judge found the Respondent guilty as charged and sentenced him to imprisonment for two years less one day on each count, to be served concurrently. The Court of Appeal allowed the Respondent's appeal and ordered a new trial. The Crown was granted leave to appeal. The appeal raises the following issues:

1. The British Columbia Court of Appeal erred in law in reversing the learned trial judge's assessment of the credibility of the complainant

2. The British Columbia Court of Appeal erred in law in holding that the learned trial judge was required to give reasons why he accepted the complainant's evidence about the indecent and sexual assaults she said were committed upon her by the Respondent.

Origin of the case:	British Columbia
File No.:	23115
Judgment of the Court of Appeal:	June 18, 1992
Counsel:	Alexander Budlovsky for the Appellant Jack Cram for the Respondent

23115 SA MAJESTÉ LA REINE c. ROBERT HOWARD BURNS

Droit pénal - Infractions - Preuve - Crédibilité de la plaignante.

L'intimé a été inculpé sous deux chefs d'accusation : attentat à la pudeur et agression sexuelle. La plaignante est née le 27 août 1971. Elle était âgée de 9 à 12 ans pendant la période visée par le premier chef et de 12 à 16 ans pendant la période visée par le second chef. Sa mère est morte alors qu'elle avait quatre ans. Son père, alcoolique notoire, a tenté d'en prendre soin mais elle a passé plus de six ans dans un foyer d'accueil. L'intimé et le père de la plaignante sont amis et ils se rendent visite de temps à autre.

En juin 1987, la plaignante a été accusée d'agressions sexuelles sur la personne de cinq jeunes garçons qu'elle gardait. À la suite de ces accusations, elle a obtenu des services de counselling et elle a reçu des soins psychologiques. Elle a révélé alors qu'elle aussi avait été victime d'exploitation sexuelle. Elle a également dit qu'elle avait été agressée sexuellement par son demi-frère. Elle a d'abord déclaré qu'il l'avait agressée de 50 à 60 fois pour ensuite réduire ce nombre à 20 fois, en soutenant que c'est plutôt l'intimé qui l'avait agressée de 50 à 60 fois.

Au procès, elle a dit que vers 1980, l'intimé l'avait amenée en voiture sur une voie secondaire et avait attenté à sa pudeur. Au cours de son témoignage, elle a aussi dit que l'intimé avait continué les contacts sexuels sur sa personne sans son consentement lorsqu'il se trouvait seul avec elle dans la maison mobile du père de la plaignante. Celle-ci a aussi fait référence à deux autres incidents similaires précis. La plaignante a déclaré qu'en janvier 1987, alors qu'elle était seule dans la maison mobile, l'intimé est entré et a eu des rapports sexuels avec elle sans son consentement.

Pendant la période qui a précédé la mise en accusation, l'intimé a été interrogé plusieurs fois par la police. Il a nié s'être mal conduit envers la plaignante. Il a consenti à passer un test polygraphique qu'il a échoué selon la police. Au cours d'un long interrogatoire qui a suivi l'administration du test, l'intimé a admis qu'il avait eu des rapports sexuels consensuels une fois avec la plaignante alors qu'elle était âgée de 15 ou 16 ans. L'intimé n'a pas témoigné au procès.

Le juge de première instance a déclaré l'intimé coupable et il l'a condamné à l'égard de chacun des chefs d'accusation à une peine d'emprisonnement de deux ans moins un jour à être purgée concurremment. La Cour d'appel a accueilli l'appui de l'intimé et elle a ordonné la tenue d'un nouveau procès. La Couronne a été autorisée à interjeter appel. L'appel porte sur les questions suivantes :

1. La Cour d'appel de la Colombie-Britannique a commis une erreur de droit en écartant l'appréciation par le juge de première instance de la crédibilité de la plaignante;

2. La Cour d'appel de la Colombie-Britannique a commis une erreur de droit en décidant que le juge de première instance était tenu de motiver sa décision d'accepter le témoignage de la plaignante au sujet des attentats à la pudeur et des agressions sexuelles qu'aurait commis l'intimé.

Origine : Colombie-Britannique

N° du greffe : 23115

Arrêt de la Cour d'appel : Le 18 juin 1992

Avocats : Alexander Budlovsky pour l'appelante
Jack Cram pour l'intimé

23794 AMANDA LOUISE THOMSON v. PAUL THOMSON

Family law - International law - Custody - Conflict of laws - Infants - Access - Application of *The Child Custody Enforcement Act*, R.S.M. 1987, c. C360 and *The Convention on the Civil Aspects of International Child Abduction* - Does art. 13 of the Convention allow the Court to consider only the consequences of returning the child to his originating jurisdiction without considering effect of removing him from his present caregivers - Whether child had been wrongfully removed to or was wrongfully being retained in Manitoba - Whether the Court of Appeal gave undue consideration to the importance of recognizing the order of an extra-provincial tribunal and insufficient consideration to either the risk of harm to the child or placing the child in an intolerable situation within the meaning of Article 13 - Whether decisions taken contrary to the best interests of a child of tender years on fundamental issues of residence and caregiving exposed the child to a grave risk of physical or psychological harm or an intolerable situation and thus unduly narrowed the scope of Article 13.

The parties were married in Scotland in 1991. Their child, Matthew Paul Thomson, was born on March 22, 1992. Between July, 1992, Matthew resided at the home of his paternal grandparents for part of the week and with his parents for the remaining days. The parties separated in September, 1992, and each sought custody of Matthew. The Sheriff granted interim custody of Matthew to the Appellant on November 27, 1992. He also granted interim access to the Respondent and ordered that the child remain in Scotland pending a further court order. On December 2, 1992, the Appellant, claiming she was not aware that she was prohibited from removing Matthew from Scotland, went with Matthew to visit her parents who had emigrated to Manitoba. She applied for custody of Matthew in Manitoba on February 3, 1993. It was the same date that the custody hearing resumed in Scotland. At the hearing in Scotland, the Respondent was granted a final order of custody. The Appellant did not attend the hearing nor did she provide instructions to her counsel who had represented her before. Consequently, her counsel was allowed to withdraw at the hearing. The record disclosed only that the Respondent and his mother presented evidence.

In March, 1993, the Respondent replied to his wife's application for custody in Manitoba with an application under *The Child Custody Enforcement Act*, R.S.M. 1987, c. C360 and *The Convention on the Civil Aspects of International Child Abduction* ("the Convention") seeking Matthew's return to Scotland. In April, the Appellant unsuccessfully appealed the custody order in Scotland. The competing applications came on for hearing in Manitoba on May 27, 1993. The Respondent only sought the return of the child to Scotland and did not seek to have the custody issue decided on its merits. Davidson J. ordered that the child be returned to Scotland forthwith, granted interim custody to the Appellant until October 28, 1993, and dismissed the Appellant's application for an order directing the trial of an issue to determine whether Matthew would suffer serious harm (s. 5 of the *Act)* or be placed in an intolerable situation (Article 13 of the *Convention*) should the Scottish order be enforced. The Appellant's appeal to the Court of Appeal was dismissed. Helper J.A., dissenting, would have allowed the appeal and granted interim custody to the Appellant.

Origin of the case:	Manitoba
File No.	23794
Judgment of the Court of Appeal:	October 18, 1993
Counsel:	Martin Gary Tadman for the Appellant Jack King for the Respondent

23794 AMANDA LOUISE THOMSON c. PAUL THOMSON

Droit de la famille - Droit international - Garde - Droit international privé - Enfants mineurs - Droit d'accès - Application de la *Loi sur l'exécution des ordonnances de garde*, L.R.M. 1987, ch. C360 et de la *Convention sur les aspects civils de l'enlèvement international d'enfants* - L'article 13 de la Convention permet-il à la Cour d'examiner les conséquences de retourner l'enfant dans son ressort d'origine sans examiner l'effet de l'enlever à ses gardiens actuels? - L'enfant a-t-il été illégitimement amené au Manitoba ou y est-il illégitimement retenu? - La Cour d'appel a-t-elle accordé une importance indue à la reconnaissance de l'ordonnance d'un tribunal étranger et une importance insuffisante soit au risque de préjudice à l'enfant soit à une situation intolérable pour l'enfant au sens de l'art. 13? - Des décisions prises contrairement à l'intérêt d'un enfant en bas âge sur des questions fondamentales de résidence et de garde exposent-elles l'enfant à un risque grave de préjudice physique ou psychologique ou à une situation intolérable, et restreignent-elles ainsi indûment la portée de l'art. 13?

Les parties se sont mariées en Écosse en 1991. Leur enfant, Matthew Paul Thomson, est né le 22 mars 1992. En juillet 1992, Matthew passait une partie de la semaine à la maison de ses grands-parents paternels et les autres jours avec ses parents. Les parties se sont séparées en septembre 1992 et chacune a demandé la garde de Matthew. Le shérif a accordé la garde provisoire à l'appelante le 27 novembre 1992. Il a également accordé un droit d'accès provisoire à l'intimé et ordonné que l'enfant reste en Écosse en attendant une autre ordonnance de la cour. Le 2 décembre 1992, l'appelante, prétendant qu'elle ne savait pas qu'il lui était interdit d'amener Matthew hors de l'Écosse, est allée avec lui visiter ses parents qui avaient émigré au Manitoba. Elle a demandé la garde de Matthew au Manitoba le 3 février 1993, le jour-même où reprenait l'audience de garde en Écosse. À l'audience en Écosse, l'intimé a obtenu une ordonnance de garde définitive. L'appelante n'a pas assisté à l'audience ni n'a donné de directives à l'avocat qui l'avait représentée auparavant. Son avocat a par conséquent été autorisé à se retirer du dossier. Le dossier montre seulement que l'intimé et sa mère ont témoigné.

En mars 1993, l'intimé a répondu à la demande de garde présentée par son épouse au Manitoba par une demande fondée sur la *Loi sur l'exécution des ordonnances de garde*, L.R.M. 1987, ch. C360, et de la *Convention sur les aspects civils de l'enlèvement international d'enfants* («la Convention») tentant à obtenir le retour de Matthew en Écosse. En avril, l'appelante a sans succès interjeté appel de l'ordonnance de garde rendue en Écosse. Les demandes ont été entendues au Manitoba le 27 mai 1993. L'intimé ne demandait que le retour de l'enfant en Écosse et ne demandait pas une décision sur le fond de la question de la garde. Le juge Davidson a ordonné que l'enfant soit retourné en Écosse immédiatement, a accordé la garde provisoire à l'appelante jusqu'au 28 octobre 1993 et rejeté la demande de l'appelante sollicitant une ordonnance portant la tenue d'une audience sur la question de savoir si Matthew subirait un préjudice grave (art. 5 de la *Loi*) ou serait placé dans une situation intolérable (art. 13 de la *Convention*) si l'ordonnance rendue en Écosse était exécutée. La Cour d'appel a rejeté l'appel de l'appelante. Le juge Helper, dissident, aurait accueilli l'appel et accordé la garde provisoire à l'appelante.

Origine : Manitoba

N° du greffe : 23794

Arrêt de la Cour d'appel : Le 18 octobre 1993

Avocats : Martin Gary Tadman pour l'appelante
Jack King pour l'intimé

23083 LE COMITÉ PARITAIRE DE L'INDUSTRIE DE LA CHEMISE AND ATTORNEY GENERAL OF QUEBEC v. JONATHAN POTASH AND SÉLECTION MILTON

Labour law - *Canadian Charter of Rights and Freedoms* - Legislation - Interpretation - Section 33 of *Collective Agreement Decrees Act*, R.S.Q. 1977, c. D-2 (C.A.D.A.), provides that any employer commits an offence if he refuses to furnish information requested under s. 22(*e*) of C.A.D.A. - Scope of protection under s. 8 of Canadian Charter and s. 24.1 of *Charter of Human Rights and Freedoms*, R.S.Q. 1977, c. C-12, in respect of power of inspection provided for by C.A.D.A.

The appellant Comité paritaire was informed that a woman in Sherbrooke had given several employees sewing work. The shirts were allegedly sewn for the respondent Sélection Milton and the employees were not paid. On February 22, 1988 two inspectors from the Comité paritaire de l'industrie de la chemise went to the premises of the respondent Sélection Milton to determine whether it was jointly responsible with a subcontractor for payment of wages. They saw in the window shirts bearing the mark of Sélection Milton. The respondent Potash, a representative of the respondent Sélection Milton, spoke to them. The inspectors asked for a list of the shirt sewing subcontracts given out by the respondent Sélection Milton. The inspectors gave Potash a form to fill out, but he refused to take it. On February 24, the inspectors renewed their initial request, also asking to see the pay book and to visit the workshop and meet with the employees. Potash refused on the ground that the inspectors had no authority.

Three charges were laid against the respondents. The first concerned the refusal of February 2 to provide the information requested. The second concerned the refusal of February 24 to allow inspectors to visit the work premises, and the third the refusal to provide the pay book.

At first instance the Court of Quebec concluded that ss. 22(*e*) and 33 of the C.A.D.A. were not contrary to ss. 8 and 24.1 of the Quebec Charter and s. 8 of the Canadian Charter. It found the respondents guilty on the three counts and ordered them to pay the minimum fine of $200 for each count plus costs. On appeal by trial *de novo*, the Superior Court affirmed the trial judgment. The Quebec Court of Appeal (Monet J.A. took no part in the judgment) held that the second paragraph of s. 22(*e*) of the C.A.D.A. was of no force or effect because it was inconsistent with s. 24.1 of the Quebec Charter and s. 8 of the Canadian Charter.

On March 16, 1993 Lamer C.J. stated the constitutional questions:

1. Are the provisions of s. 22(*e*) of the *Collective Agreement Decrees Act*, R.S.Q. 1977, c. D-2, providing for powers of inspection, inconsistent with s. 8 of the *Canadian Charter of Rights and Freedoms*?

2. If the Court answers the first question in the affirmative, can these provisions be justified under s. 1 of the *Canadian Charter of Rights and Freedoms*?

Origin of case: Quebec

File No. 23083

Court of Appeal judgment: June 3, 1992

Counsel: Michelle LeFrançois for the Comité paritaire de l'industrie de la chemise
Gilles Laporte and Monique Brousseau for the Attorney General of Quebec
Avrum Oreinstein and Jean Dagenais for the respondents

23083 LE COMITÉ PARITAIRE DE L'INDUSTRIE DE LA CHEMISE ET LE PROCUREUR GÉNÉRAL DU QUÉBEC c. JONATHAN POTASH ET SÉLECTION MILTON

Droit du travail - *Charte canadienne des droits et libertés* - Législation - Interprétation - L'art. 33 de la *Loi sur les décrets de convention collective*, L.R.Q. 1977, ch. D-2, (*L.D.C.C.*) prévoit que tout employeur commet une infraction s'il refuse de fournir les renseignements demandés en vertu de l'al. 22*e*) de la *L.D.C.C.* - Portée de la protection de l'art. 8 de la *Charte canadienne* et de l'art. 24.1 de la *Charte des droits et libertés de la personne*, L.R.Q., ch. C-12, en regard du pouvoir d'inspection prévu par la *L.D.C.C.*

L'appelant, le Comité paritaire, est mis au courant qu'une certaine dame de Sherbrooke a donné du travail de couture à plusieurs employés. Les chemises auraient été cousues pour le compte de l'intimée Sélection Milton et les employés n'auraient pas été payés. Le 2 février 1988, deux inspecteurs du Comité paritaire de l'industrie de la chemise se présentent donc chez l'intimée Sélection Milton pour déterminer si celle-ci est solidairement responsable du paiement du salaire avec un sous-traitant. Ils voient dans la vitrine des chemises portant la marque de Sélection Milton. L'intimé Potash, un représentant de l'intimée Sélection Milton, les rencontre. Les inspecteurs demandent d'obtenir la liste des sous-contrats de couture de chemises donnés par l'intimée Sélection Milton. Les inspecteurs remettent donc à Potash le formulaire approprié, mais celui-ci refuse de le prendre. Le 24 février, les inspecteurs renouvellent leur demande initiale, demandent également à voir le registre de paye et à visiter l'atelier de travail pour rencontrer les employés. Potash refuse au motif que les inspecteurs n'ont pas de mandat.

Trois chefs d'accusation sont portés contre les intimés. Le premier chef porte sur le refus du 2 février de fournir les renseignements demandés. Le deuxième porte sur le refus du 24 février de permettre aux inspecteurs de visiter les lieux de travail et le troisième sur le refus de fournir le registre de paye.

En première instance, la Cour du Québec conclut que les articles 22*e*) et 33 de la *L.D.C.C.* ne sont pas contraires aux articles 8 et 24.1 de la *Charte québécoise*, et à l'article 8 de la *Charte canadienne*. Elle déclare les intimés coupables des trois infractions et les condamne à l'amende minimale de 200$ pour chacune des infractions, ainsi qu'aux frais. En appel par procès *de novo*, la Cour supérieure confirme le jugement de première instance. La Cour d'appel du Québec (le juge Monet n'a pas pris part au jugement) déclare inopérant le deuxième alinéa de l'alinéa 22*e*) de la *L.D.C.C.* parce qu'il serait incompatible avec l'article 24.1 de la *Charte québécoise* et avec l'article 8 de la *Charte canadienne*.

Le 16 mars 1993, le juge en chef Lamer formule des questions constitutionnelles.

1. Les dispositions du paragraphe 22*e*) de la *Loi sur les décrets des conventions collectives*, L.R.Q., ch. D-2, qui accordent des pouvoirs d'inspection, sont-elles incompatibles avec l'article 8 de la *Charte canadienne des droits et libertés*?

2. Dans l'hypothèse où la Cour répondrait par l'affirmative à la première question, ces dispositions peuvent-elles se justifier dans le cadre de l'article premier de la *Charte canadienne des droits et libertés*?

Origine de la cause : Québec

No. de greffe : 23083

Jugement de la Cour d'appel : Le 3 juin 1992

Avocats: Me Michelle LeFrançois pour le Comité paritaire de l'industrie de la chemise
Me Gilles Laporte et Me Monique Brousseau pour le Procureur général du Québec
Me Avrum Oreinstein et Me Jean Dagenais pour les intimés

23141 LORI ANN WILLICK - v. - BRYAN DOUGLAS ALBERT WILLICK

Family law - Divorce - Maintenance and support - Material change in circumstances - Section 17 of the *Divorce Act* - Did Court of Appeal err in its interpretation of s. 17(4) of the *Divorce Act* in ruling that change in Respondent's circumstances was not sufficient to justify variation in child support? - Did change in childrens' need amount to a change in circumstances? - Did trial judge make a serious error in principle which would justify the intervention of the Court of Appeal?

The parties, married in 1979 and separated in 1989, had two children. On separation, they entered into a separation agreement which provided, *inter alia*, that the Respondent would pay $700 per month for spousal support and $450 per month per child, to increase at 3% per year. The Respondent, a pilot, was then earning $40,000 per year, and had accepted a position, in Hong Kong, which entailed an increased salary. He currently earns $100,000 per year in salary and bonuses. The parties had agreed that the Appellant would not work outside the home until the youngest child reached the age of three. The Appellant earns a nominal amount as a part time tour guide.

The terms of the separation agreement were incorporated in the decree nisi of divorce. The Appellant applied for a variation in support on the basis of a change in circumstances. The chambers judge allowed the application and increased the child support to $850.00 per month per child. The Respondent appealed to the Court of Appeal of Saskatchewan, which allowed his appeal and set aside the chambers judge's order.

Origin of the case:	Sask.
File No.:	23141
Judgment of the Court of Appeal:	May 12, 1992
Counsel:	Donna Wilson for the Appellant Deryk Kendall for the Respondent

23141 LORI ANN WILLICK c. BRYAN DOUGLAS ALBERT WILLICK

Droit de la famille - Divorce - Aliments - Changement important dans la situation - Article 17 de la *Loi sur le divorce* - La Cour d'appel a-t-elle commis une erreur dans son interprétation du par. 17(4) de la *Loi sur le divorce* quand elle a décidé que le changement dans la situation de l'intimé n'était pas suffisant pour justifier une modification des aliments aux enfants? - Le changement dans les besoins des enfants équivaut-il à un changement dans la situation? - Le juge de première instance a-t-il commis une erreur de principe grave justifiant l'intervention de la Cour d'appel?

Les parties se sont mariées en 1979 et séparées en 1989. Elles ont eu deux enfants. Lors la séparation, elles ont signé un accord de séparation qui prévoyait, entre autres, que l'intimé verserait 700 $ par mois à titre d'aliments à l'épouse et 450 $ par mois par enfant, devant s'accroître de 3 p. 100 par année. L'intimé, un pilote, gagnait alors 40 000 $ par année et avait accepté un poste à Hong Kong qui comportait une augmentation de salaire. Il gagne présentement 100 000 $ par année en salaire et bonis. Les parties avaient convenu que l'appelante ne travaillerait pas à l'extérieur jusqu'à ce que le plus jeune enfant ait atteint trois ans. L'appelant gagne un petit montant comme guide touristique à temps partiel.

Les modalités de l'accord de séparation ont été incorporées dans l'ordonnance provisoire de divorce. L'appelante a demandé une modification des aliments à cause de changement dans la situation. Le juge en chambre a accueilli la demande et augmenté les aliments aux enfants à 850 $ par mois par enfant. L'intimé a interjeté appel à la Cour d'appel de la Saskatchewan qui a accueilli son appel et infirmé l'ordonnance du juge en chambre.

Origine : Saskatchewan

N° du greffe : 23141

Arrêt de la Cour d'appel : Le 12 mai 1992

Avocats : Donna Wilson pour l'appelante
Deryk Kendall pour l'intimé

23436 GREGORY WILLIAM PITTMAN v. HER MAJESTY THE QUEEN

Criminal Law - Evidence - Trial - Whether the Court of Appeal erred in its interpretation and application of the law regarding accomplice evidence - *Vetrovec v. The Queen*, [1992] 1 S.C.R. 811.

Following the stabbing death of Deborah Neary, Gregory Pittman was charged with second degree murder. Pittman said that Joseph Pyke (who became an important Crown witness) did it. Neary had been murdered in Pyke's apartment, but Pyke testified that he saw the Appellant commit the crime. When police found Pittman and Pyke shortly after the murder, Pyke had blood stained clothing but Pittman was clean. Both were under the influence of alcohol and drugs. A knife, which could have been the murder weapon, was found in Pittman's apartment free of blood. The Appellant gave several exculpatory statements to police, but did not testify at trial. The police tapped the Appellant's phone for some time prior to the charges, and evidence of taped conversations was introduced into evidence. The Appellant's brother testified that, in a telephone conversation, the Appellant had confessed to a murder of a girl. There was conflicting evidence as to when this call had taken place.

The Appellant, Pittman, was convicted of second degree murder following a jury trial. The Supreme Court of Nova Scotia, Appeal Division dismissed Pittman's appeal against conviction and sentence. Jones J.A., dissenting, would have ordered a new trial. The Appellant has filed a notice of appeal, as of right, on the issue of whether the Court of Appeal erred in its interpretation of the law regarding accomplice evidence set out in *Vetrovec v. The Queen*, [1982] 1 S.C.R. 811.

Origin of the case:	Nova Scotia
File No.:	23436
Judgment of the Court of Appeal:	January 19, 1993
Counsel:	Allan F. Nicholson for the Appellant Dana Giovannetti for the Respondent

23436 GREGORY WILLIAM PITTMAN c. SA MAJESTÉ LA REINE

Droit criminel) Preuve) Procès) La Cour d'appel a-t-elle commis une erreur en interprétant et en appliquant le droit relatif au témoignage d'un complice?) *Vetrovec c. La Reine*, [1982] 1 R.C.S. 811.

Après l'assassinat à coups de couteau de Deborah Neary, Gregory Pittman a été accusé de meurtre au deuxième degré. Pittman a dit que Joseph Pyke (qui est devenu un important témoin à charge) était l'auteur du crime. Neary avait été assassinée dans l'appartement de Pyke, mais celui-ci a témoigné avoir vu l'appelant commettre le crime. Quand la police a trouvé Pittman et Pyke peu après le meurtre, Pyke portait des vêtements tachés de sang, mais non Pittman. Tous deux étaient sous l'influence de l'alcool et de drogues. Un couteau qui pouvait être l'arme du crime a été trouvé dans l'appartement de Pittman et ne portait pas de tache de sang. L'appelant a fait plusieurs déclarations disculpatoires à la police, mais n'a pas témoigné au procès. La police a mis le téléphone de l'appelant sous écoute quelque temps avant le dépôt des accusations et des conversations enregistrées ont été présentées en preuve. Le frère de l'appelant a témoigné que, dans une conversation téléphonique, l'appelant avait avoué le meurtre d'une fille. La preuve était contradictoire quant au moment de cette conversation.

À la suite d'un procès devant jury, Pittman a été déclaré coupable de meurtre au deuxième degré. La Section d'appel de la Cour suprême de la nouvelle-Écosse a rejeté l'appel de Pittman contre la déclaration de culpabilité et la peine. Le juge Jones, dissident, aurait ordonné la tenue d'un nouveau procès. L'appelant interjette appel de plein droit sur la question de savoir si la Cour d'appel a commis une erreur dans son interprétation du droit relatif au témoignage d'un complice, exposé dans l'arrêt *Vetrovec c. La Reine*, [1992] 1 R.C.S. 811.

Origine : Nouvelle-Écosse

Nº du greffe : 23436

Arrêt de la Cour d'appel : Le 19 janvier 1993

Avocats : Allan F. Nicholson pour l'appelant
Dana Giovannetti pour l'intimée

SUMMARIES OF THE CASES / RÉSUMÉS DES AFFAIRES

APPEALS INSCRIBED FOR HEARING AT THE SESSION OF THE SUPREME COURT OF CANADA, BEGINNING MONDAY, JANUARY 24, 1994

APPELS INSCRITS POUR AUDITION À LA SESSION DE LA COUR SUPRÊME DU CANADA COMMENÇANT LE LUNDI 24 JANVIER 1994

DEADLINES: MOTIONS

BEFORE THE COURT:

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

Motion day	**:**	**February 7, 1994**
Service	:	January 17, 1994
Filing	:	January 24, 1994
Respondent	:	January 31, 1994
Motion day	**:**	**March 7, 1994**
Service	:	February 14, 1994
Filing	:	February 21, 1994
Respondent	:	February 28, 1994
Motion day	**:**	**May 2, 1994**
Service	:	April 11, 1994
Filing	:	April 18, 1994
Respondent	:	April 25, 1994
Motion day	**:**	**June 6, 1994**
Service	:	May 16, 1994
Filing	:	May 23, 1994
Respondent	:	May 30, 1994

BEFORE A JUDGE OR THE REGISTRAR:

Pursuant to Rule 22 of the *Rules of the Supreme Court of Canada*, a motion before a judge or the Registrar must be filed not later than three clear days before the time of the hearing.

Please call (613) 996-8666 for further information.

DÉLAIS: REQUÊTES

DEVANT LA COUR:

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

Audience du	**:**	**7 février 1994**
Signification	:	17 janvier 1994
Dépôt	:	24 janvier 1994
Intimé	:	31 janvier 1994
Audience du	**:**	**7 mars 1994**
Signification	:	14 février 1994
Dépôt	:	21 février 1994
Intimé	:	28 février 1994
Audience du	**:**	**2 mai 1994**
Signification	:	11 avril 1994
Dépôt	:	18 avril 1994
Intimé	:	25 avril 1994
Audience du	**:**	**6 juin 1994**
Signification	:	16 mai 1994
Dépôt	:	23 mai 1994
Intimé	:	30 mai 1994

DEVANT UN JUGE OU LE REGISTRAIRE:

Conformément à l'article 22 des *Règles de la Cour suprême du Canada*, une requête présentée devant un juge ou le registraire doit être déposée au moins trois jours francs avant la date d'audition.

Pour de plus amples renseignements, veuillez appeler au (613) 996-8666.

DEADLINES: APPEALS

The next session of the Supreme Court of Canada commences on January 24, 1994.

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:

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

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

Respondent's factum must be filed within eight weeks of the date of service of the appellant's factum.

Intervener's factum must be filed within two weeks of the date of service of the respondent's factum.

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

The Registrar shall enter on a list all appeals inscribed for hearing at the January 1994 Session on November 30, 1993.

DÉLAIS: APPELS

La prochaine session de la Cour suprême du Canada débute le 24 janvier 1994.

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

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

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

Le mémoire de l'intimé doit être déposé dans les huit semaines suivant la signification de celui de l'appelant.

Le mémoire de l'intervenant doit être déposé dans les deux semaines suivant la signification de celui de l'intimé.

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.

Le 30 novembre 1993, le registraire met au rôle de la session de janvier 1994 tous les appels inscrits pour audition.

THE STYLES OF CAUSE IN THE PRESENT TABLE ARE THE STANDARDIZED STYLES OF CAUSE (AS EXPRESSED UNDER THE "INDEXED AS" ENTRY IN EACH CASE).

Judgments reported in [1993] 3 S.C.R., Part 3

Ontario Hydro *v.* Ontario (Labour Relations Board), [1993] 3 S.C.R. 327

R. *v.* Morgentaler, [1993] 3 S.C.R. 463

Slattery (Trustee of) *v.* Slattery, [1993] 3 S.C.R. 430

LES INTITULÉS UTILISÉS DANS CETTE TABLE SONT LES INTITULÉS NORMALISÉS DE LA RUBRIQUE "RÉPERTORIÉ" DANS CHAQUE ARRÊT.

Jugements publiés dans [1993] 3 R.C.S., partie 3

Ontario Hydro *c.* Ontario (Commission des relations de travail), [1993] 3 R.C.S. 327

R. *c.* Morgentaler, [1993] 3 R.C.S. 463

Slattery (Syndic de) *c.* Slattery, [1993] 3 R.C.S. 430

Judgments reported in [1993] 3 S.C.R., Part 4

National Party of Canada *v.* Canadian Broadcasting Corp., [1993] 3 S.C.R. 651

R. *v.* B. (J.G.), [1993] 3 S.C.R. 643

R. *v.* Côté, [1993] 3 S.C.R. 639

R. *v.* Evans, [1993] 3 S.C.R. 653

R. *v.* Gaetz, [1993] 3 S.C.R. 645

R. *v.* Leduc, [1993] 3 S.C.R. 641

R. *v.* Price, [1993] 3 S.C.R. 633

R. *v.* Profit, [1993] 3 S.C.R. 637

R. *v.* Ruiz, [1993] 3 S.C.R. 649

R. *v.* Smith, [1993] 3 S.C.R. 635

R. *v.* Yorke, [1993] 3 S.C.R. 647

Rodriguez *v.* British Columbia (Attorney General), [1993] 3 S.C.R. 519

Jugements publiés dans [1993] 3 R.C.S., partie 4

Parti national du Canada *c.* Société Radio-Canada, [1993] 3 R.C.S. 651

R. *c.* B. (J.G.), [1993] 3 R.C.S. 643

R. *c.* Côté, [1993] 3 R.C.S. 639

R. *c.* Evans, [1993] 3 R.C.S. 653

R. *c.* Gaetz, [1993] 3 R.C.S. 645

R. *c.* Leduc, [1993] 3 R.C.S. 641

R. *c.* Price, [1993] 3 R.C.S. 633

R. *c.* Profit, [1993] 3 R.C.S. 637

R. *c.* Ruiz, [1993] 3 R.C.S. 649

R. *c.* Smith, [1993] 3 R.C.S. 635

R. *c.* Yorke, [1993] 3 R.C.S. 647

Rodriguez *c.* Colombie-Britannique (Procureur général), [1993] 3 R.C.S. 519