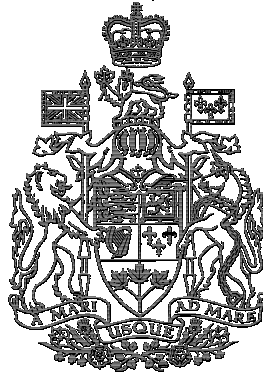


**SUPREME COURT
OF CANADA**



**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

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October 13, 1995

1557 - 1579

le 13 octobre 1995

**APPLICATIONS FOR LEAVE TO
APPEAL FILED**

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

Ville de Brossard

Joël Mercier
Roy Mercier

c. (24899)

Serge Malo et al. (Qué.)

Serge Lavergne
Sauvé, Ménard & Assoc.

DATE DE PRODUCTION 10.10.1995

Seyed Vahid Momeni

Shaun Nakatsuru
Nakatsuru & Doucette

v. (24900)

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

Fergus O'Donnell
Dept. of Justice

FILING DATE 10.10.1995

Ronald Sydney Candy

R.S. Prithipaul
Gunn & Prithipaul

v. (24902)

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

Shelagh Creagh
A.G. of Alberta

FILING DATE 11.10.1995

OCTOBER 10, 1995 / LE

10 OCTOBRE 1995

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

Yves Audet

c. (24653)

Sa Majesté la Reine (Crim.)(N.-B.)

NATURE DE LA CAUSE

Charte canadienne des droits et libertés - Droit criminel - Infraction - Défense - Preuve - Interprétation - Demande d'autorisation d'appel incident sur la question du délai déraisonnable - Alinéa 11b) de la *Charte* - Interprétation de la *Reine c. Morin*, [1992] 1 R.C.S. 771 - Les faits soulèvent-ils une question de droit concernant le facteur préjudice au sens de l'arrêt *Morin*, précité? - Appel de plein droit par l'intimée sur l'interprétation de l'article 153(1)(a) du *Code criminel* - La Cour d'appel du Nouveau-Brunswick a-t-elle commis une erreur dans l'interprétation des termes "situation de confiance" de l'article 153(1)(a) du *Code criminel*?

HISTORIQUE PROCÉDURAL

Le 6 décembre 1993
Cour du Banc de la Reine du
Nouveau-Brunswick (McIntyre J.C.B.R.)

Requête du demandeur pour arrêt des procédures
rejetée;
Acquittement: exploitation sexuelle

Le 14 mars 1995
Cour d'appel du Nouveau-Brunswick
(Angers, Rice et Ayles [dissident], J.J.A.)

Appel de l'intimée rejeté avec dissidence
Appel reconventionnel du demandeur sur la question
du délai déraisonnable rejeté

Le 6 avril 1995
Cour suprême du Canada

Avis d'appel de plein droit déposé par l'intimée

Le 9 août 1995
Cour suprême du Canada

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

Johnny Adrian Mattice

v. (24808)

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

NATURE OF THE CASE

Criminal law - Evidence - Defences - Drunkenness - Should evidence of unprovoked assaults committed by the Applicant, unrelated to the charges, have been admitted? - Whether Court of Appeal erred in applying the provisions of section 686(1)(b)(iii) when the trial judge improperly instructed jury on issue of drunkenness and therefore the issue of intent.

PROCEDURAL HISTORY

November 10, 1992
Supreme Court of British Columbia (Hunter J.)

Conviction: second degree murder

April 13, 1995
Court of Appeal for British Columbia
(Carrothers, Hinds and Ryan JJ.A.)

Appeal dismissed

July 6, 1995
Supreme Court of Canada

Application for leave to appeal filed

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

Victor Brian Olson

v. (24803)

The Law Society of Manitoba (Man.)

NATURE OF THE CASE

Administrative law - Judicial review - Procedural law - Law of professions - Barristers and solicitors - Statutes - Interpretation - Applicant found guilty of professional misconduct - When a professional society is given, by statute, the right to make punitive findings against a practising member and when the only redress from such a decision is an appeal to the Court of Appeal, is the Court of Appeal, in exercising its jurisdiction, bound by findings of fact where there is no identifiable evidence to support the findings of fact and when the society and the court have been challenged to identify the evidence of which the findings have allegedly been based and have failed to do so?

PROCEDURAL HISTORY

December 21, 1993
Law Society of Manitoba

Applicant found guilty of professional misconduct, reprimanded and ordered to pay \$750

November 1, 1994
Court of Appeal of Manitoba
(Scott, C.J.M., Lyon and Kroft, JJ.A.)

Appeal dismissed

April 20, 1995
Court of Appeal of Manitoba
(Scott, C.J.M., Lyon and Kroft, JJ.A.)

Application for reconsideration dismissed

June 8, 1995
Court of Appeal of Manitoba
(Scott, C.J.M., Lyon and Kroft, JJ.A.)

Application for leave to appeal to the Supreme Court of Canada pursuant to s. 37 of the *Supreme Court Act* dismissed

June 28, 1995
Supreme Court of Canada

Application for leave to appeal filed

The Alberta Union of Provincial Employees and Ken Johnston

v. (24794)

Her Majesty The Queen in Right of Alberta (Alta.)

NATURE OF THE CASE

Labour law - Arbitration - Administrative law - Judicial review - Whether the Applicant was entitled to the severance allowance under the letter of understanding signed by the employer and the Union - Whether the Court of Appeal erred when it held that the Adjudication Board's interpretation of the letter of understanding could not be rationally supported by its wording - Whether the Court of Appeal erred when it determined that the Adjudication Board's decision was patently unreasonable because it was based on irrelevant considerations.

PROCEDURAL HISTORY

April 20, 1993
Court of Queen's Bench of Alberta (Lefsrud J.)

Application for judicial review of the Adjudication
Board's decision allowed

April 24, 1995
Court of Appeal of Alberta
(Belzil, Côté and Russell JJ.A.)

Appeal dismissed

June 22, 1995
Supreme Court of Canada

Application for leave to appeal filed

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

Stephen Biscette

v. (24787)

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

NATURE OF THE CASE

Criminal law - Evidence - Admissibility - Unadopted prior inconsistent statement of a witness - Crown witness giving evidence at trial inconsistent with evidence given at preliminary hearing - Whether the Court of Appeal erred in applying the law pertaining to admissibility of prior inconsistent statements made by Crown witness and admitting such statements for the truth of their contents?

PROCEDURAL HISTORY

January 27, 1994
Court of Queen's Bench of Alberta
(Virtue J.)

Convictions: Robbery, unlawful masking of his face with intent to commit an indictable offence, unlawful possession of a truck knowing it was stolen, unlawful possession \$6,500.00 cash knowing it was stolen and two other counts of unlawful possession

June 8, 1995
Court of Appeal of Alberta
(Harradence (dissenting), Coté and O'Leary JJ.A.)

Appeal dismissed

June 21, 1995
Supreme Court of Canada

Notice of appeal as of right filed

July 27, 1995
Supreme Court of Canada

Application for leave to appeal filed

**Fernando Arduengo Naredo and
Nieves Del Carmen Arduengo**

v. (24820)

The Minister of Employment & Immigration (F.C.A.)(Ont.)

NATURE OF THE CASE

Immigration - Administrative law - Canadian Charter - Statutes - Interpretation - Whether the Federal Court of Appeal erred in law in failing to consider the application of the principle of *functus officio* to the facts before them - Whether the Federal Court of Appeal erred in law in determining that the principles of estoppel did not apply on the facts before it - Whether the Federal Court of Appeal erred in law in concluding that section 37(5) and (6) of the *Immigration Act* did not contravene the principles of fundamental justice under section 7 of the *Charter of Rights and Freedoms* and section 2(e) of the *Bill of Rights* - Whether the Federal Court of Appeal erred in law in concluding that the best interests of the Applicants' Canadian children in the context of family need not be balanced in respect of a decision to deport their parents.

PROCEDURAL HISTORY

July 24, 1990
Federal Court (Trial Division)
(Muldoon J.)

Application for certiorari, prohibition and mandamus
in order to obviate a deportation order, dismissed

June 6, 1995
Federal Court of Appeal
(Strayer, Linden, McDonald JJ.A.)

Appeal dismissed

July 25, 1995
August 11, 1995
Supreme Court of Canada

Application for leave to appeal filed
Motion for stay of deportation orders filed

**CORAM: CHIEF JUSTICE LAMER AND L'HEUREUX-DUBÉ AND GONTHIER JJ. /
LE JUGE EN CHEF LAMER ET LES JUGES L'HEUREUX-DUBÉ ET GONTHIER**

Compagnie Montréal Trust

c. (24843)

Gestion d'investissements Jadeau Inc. et Jacques Bilodeau (Qué.)

NATURE DE LA CAUSE

Procédure - Procédure civile - Appel - Compétence - Requête de la demanderesse pour ordonnance de délaissement et permission de vendre sous contrôle judiciaire - Requête des intimés pour suspendre la requête de la demanderesse ou, subsidiairement, pour la réunir à leur action en annulation de vente et en dommages - Requête en suspension accueillie par la Cour supérieure - La Cour d'appel du Québec a-t-elle erré en rejetant le pourvoi de la demanderesse au motif que le jugement de la Cour supérieure est une ordonnance rendue en vertu de l'art. 271 du *Code de procédure civile*, L.R.Q. 1977, ch. C-25, et que l'art. 272 dispose que pareille ordonnance n'est pas sujette à appel? - La Cour d'appel possède-t-elle un pouvoir inhérent ou statutaire de réformer un jugement de la Cour supérieure lorsque celle-ci excède sa compétence?

HISTORIQUE PROCÉDURAL

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST ISSUE

DEMANDES SOUMISES À LA COUR DEPUIS
LA DERNIÈRE PARUTION

Le 18 novembre 1994
Cour supérieure du Québec (Downs j.c.s.)

Requête en suspension d'action accordée

Le 24 mai 1995
Cour d'appel du Québec
(Vallerand, Tourigny et Lagacé jj.c.a.)

Appel rejeté pour absence de compétence

Le 29 août 1995
Cour suprême du Canada

Demande d'autorisation d'appel déposée

OCTOBER 12, 1995 / LE 12 OCTOBRE 1995

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

Northeast Marine Services Limited

v. (24629)

Atlantic Pilotage Authority (F.C.A.)(N.S.)

NATURE OF THE CASE

Administrative law - Commercial law - Judicial review - Contracts - Tendering process - Criteria not disclosed to all bidders - Exclusion clause inadvertently omitted from the tender specification - Finding by trial judge that the granting of the pilot boat contract to East Coast Marine Services Limited was a foregone conclusion because of the undisclosed preconditions of monopoly - Whether the role of a Court of Appeal permits it to substitute its own determinations and findings of fact for those made by a trial judge - Whether the Federal Court of Appeal erred in holding that the trial judge's determination that the tendering process was rigged against the Applicant from the outset was a consequence of his misconstruing the evidence - Whether the Federal Court of Appeal erred in holding that the Respondent did not breach the tender contract with the Applicant by rejecting the Applicant's low bids on the basis of undisclosed criteria.

PROCEDURAL HISTORY

ORAL HEARING ORDERED

AUDIENCE ORDONNÉE

October 19, 1992
Federal Court of Canada, Trial Division
(McNair, Deputy Judge)

Action for damages against the Respondent allowed

January 25, 1995
Federal Court of Appeal
(Stone, Décary and Létourneau JJ.A.)

Appeal allowed; decision of the trial judge is set
aside and the action of the Applicant is dismissed

March 24, 1995
Supreme Court of Canada

Application for leave to appeal filed

OCTOBER 11, 1995 / LE 11 OCTOBRE 1995

24632 **SERVICES ENVIRONNEMENTAUX LAIDLAW (MERCIER) LTÉE - c. - LE PROCUREUR GÉNÉRAL DU QUÉBEC** (Qué.)

CORAM: Le Juge en chef et les juges L'Heureux-Dubé et Gonthier

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 de l'environnement - Législation - Infraction - Interprétation - Demanderesse acquittée de l'infraction d'avoir émis un contaminant dans l'environnement - Appel de l'intimé en Cour d'appel accueilli - Interprétation de l'article 20 de la *Loi sur la qualité de l'environnement*, L.R.Q., ch. Q-2 - La prohibition d'émettre un contaminant dans l'environnement oblige-t-elle toute personne ayant la garde et le contrôle d'un site contaminé à décontaminer et à restaurer ce site? - La migration de contaminants déjà présents dans l'environnement depuis plusieurs années constitue-t-elle une émission d'un contaminant dans l'environnement au sens de l'article 20 de la loi précitée? - Une "fuite" de contaminants constitue-t-elle une "émission" au sens de l'article 20 de la loi précitée? - La Cour d'appel était-elle justifiée d'intervenir quant à l'appréciation des faits par le juge de première instance?

24652 **LE PROCUREUR GÉNÉRAL DU CANADA - c. - HYDRO-QUÉBEC - et - LE PROCUREUR GÉNÉRAL DU QUÉBEC** (Qué.)

CORAM: Le Juge en chef et les juges Gonthier et Iacobucci

La demande d'autorisation d'appel est accordée.

The application for leave to appeal is granted.

NATURE DE LA CAUSE

Droit de l'environnement - Droit constitutionnel - Partage des compétences - Législation - Interprétation - *Loi constitutionnelle de 1867* - Validité constitutionnelle de l'alinéa 6a) de l'Arrêté d'urgence concernant les biphényles chlorés, C.P. 1989-26, adopté en application de la *Loi canadienne sur la protection de l'environnement* L.R.C. de 1988, 4e suppl., ch.16 - Théorie des dimensions nationales - Théorie du double aspect - Compétence fédérale en matière de droit criminel.

24640 **ALTON WILLIAM ROYER - v. - HER MAJESTY THE QUEEN** (Crim.)(Ont.)

CORAM: The Chief Justice and Gonthier and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Criminal law - *Canadian Charter of Rights and Freedoms* - Defence - Evidence - Pre-trial procedure - Procedural law - Whether there was an improper re-examination - Whether alcohol induced automatism should have been left with the jury as a defence - Whether the preferred indictment after discharge at a preliminary hearing offends the principles of *autrefois acquit* and violates Section 11(h) of the *Canadian Charter of Rights and Freedoms* - Whether the charge of first degree murder preferred shortly before trial should be stayed as an abuse of process - Whether the trial judge erred in the charge to the jury regarding intent and the absence of motive - Whether evidence of prior threats should have been ruled inadmissible.

24709 **R.M.G. - v. - HER MAJESTY THE QUEEN** (Crim.)(B.C.)

CORAM: The Chief Justice and Gonthier and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Criminal law - Procedural law - Trial - Jury - Exhortation to the jury - Whether the curative proviso in the *Criminal Code* applies to an improper exhortation to a jury - What is the proper test for appellate review when the exhortation contains multiple errors of law.

24713 **HER MAJESTY THE QUEEN - v. - ROYAL BANK OF CANADA** (Alta.)

CORAM: The Chief Justice and Gonthier and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Commercial law - Securities - Banks/banking operations - Creditor & debtor - Bankruptcy - Whether *Bank Act* security or deemed statutory trust under *Income Tax Act* takes priority in the distribution of proceeds of bankrupt company's inventory - Whether the Court of Appeal properly determined the nature, whether fixed, floating or otherwise, of *Bank Act* security in a borrower's inventory.

24724 **THE BOARD OF EDUCATION FOR THE CITY OF TORONTO - v. - ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION, DISTRICT 15 (TORONTO), OWEN SHIME, O.C., A.S. MERRITT AND L.A. JONES** (Ont.)

CORAM: The Chief Justice and Gonthier and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Labour law - Arbitration - Administrative law - Judicial review - Jurisdiction - Whether the Court of Appeal erred in its application of the test of "clear irrational" in determining whether the award of the Board of Arbitration was patently unreasonable - Whether the Court of Appeal erred in failing to hold that the Board exceeded its jurisdiction in not determining that the grievor was incapable of fulfilling his duties as a teacher under the *Education Act*, R.S.O. 1990, c. E.2 - Whether the Court of Appeal erred in failing to find that there was a complete absence of evidence to support the findings of the Board that the grievor's conduct was temporary and not likely to be repeated in the future.

24791 **Paintings, Drawings and Photographic slides of Paintings seized on February 23, 1994 by virtue of a warrant issued on February 23, 1994 pursuant to s. 164 of the Criminal Code of Canada - v. - Her Majesty the Queen** (Crim.)(Ont.)

CORAM: The Chief Justice and Gonthier and Iacobucci JJ.

The application for leave to appeal and the application for leave to cross-appeal are dismissed.

La demande d'autorisation d'appel et la demande d'autorisation d'appel-incident sont rejetées.

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Freedom of expression under s. 2(b) of the Charter - Unreasonable seizure under s. 8 of the Charter - Remedy - Section 1 of the Charter - Forfeiture hearing under s. 163.1 and 164 of the Criminal Code, R.S.C. 1985, c. C-46 pursuant to which paintings and drawings by Eli Langer were seized - Whether provisions of the Criminal Code infringe the Charter, and if so, whether justified under s. 1 - Appropriate remedy - Reading down.

24798 **HER MAJESTY THE QUEEN - v. - FÉLIX MICHAUD** (Crim.)(N.B.)

CORAM: The Chief Justice and Gonthier and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Criminal law - Defence - Evidence - Alibi - Accomplice's evidence - Whether the Court of Appeal of New Brunswick erred as to the nature of the charge to the jury required in the case of evidence of an "accomplice" - Whether the Court of Appeal erred as to the nature of the charge to the jury required when the accused presents the defence of alibi - Whether the Court of Appeal erred in law in finding that the address by Crown counsel to the jury was, in law, inflammatory.

24761 **VILLE DE MONTRÉAL - c. - SYNDICAT CANADIEN DE LA FONCTION PUBLIQUE, SECTION LOCALE 301 - et - CONSEIL DES SERVICES ESSENTIELS** (Qué.)

CORAM: Le Juge en chef et les juges L'Heureux-Dubé et Gonthier

La demande d'autorisation d'appel est accordée.

The application for leave to appeal is granted.

NATURE DE LA CAUSE

Droit administratif - Droit du travail - Relations de travail - Convention collective - Contrôle judiciaire - Compétence - Refus des employés de faire du temps supplémentaire - Pouvoir du Conseil des services essentiels d'accorder le redressement - La Cour d'appel peut-elle invalider les dispositions de l'ordonnance du Conseil des services essentiels non reliées à la liberté d'effectuer du temps supplémentaire rendant ainsi sans objet les citations pour outrage au tribunal qui ont pour but de sanctionner la grève illégale et les gestes illégaux commis par le syndicat, ses officiers et ses membres en violation de l'ordonnance? - Le Conseil des services essentiels a-t-il excédé sa compétence en rendant l'ordonnance qui suspend temporairement, et dans un contexte limitatif, le droit à la liberté individuelle d'effectuer du temps supplémentaire prévu à la convention collective?

24772 **HER MAJESTY THE QUEEN - v. - BORIS TARNOVSKY** (Crim.)(Ont.)

CORAM: The Chief Justice and Gonthier 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 - Defence of alibi - Whether time is an essential element of the offence - Respondent found guilty of sexual assault and of touching for a sexual purpose - Appeal allowed - Whether the Court of Appeal for Ontario erred in law in defining the scope of the "alibi exception" to the general rule that time is not an essential element of an offence so broadly as to transform time into an essential element of the offence of sexual assault in the circumstances of this case.

24684 MARA PROPERTIES LTD. - v. - HER MAJESTY THE QUEEN (F.C.A.)(B.C.)

CORAM: The Chief Justice and Gonthier and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Taxation - Statutes - Assessment - Interpretation - Sale - Whether inventory of a subsidiary distributed to its parent in a transaction governed by section 88(1) of the *Income Tax Act*, loses its character as inventory because its deemed cost under subsection 88(1) exceeds its value, resulting in a loss when the parent sells the property - Whether rollover provisions, such as subsection 88(1), can be defeated by a re-characterization of the transferred property solely by the subjective intention of the transferee, without regard to the history of the property in the hands of the transferor.

24647 THE GOVERNING COUNCIL OF THE UNIVERSITY OF TORONTO, A. BYRON MacDONALD and R. BLAIR HICKEN v. BUDGET RENT A CAR OF EDMONTON LTD. (Alta.)

CORAM: La Forest, Cory 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 - Contracts - Insurance - Negligence - Whether a consumer signing a standard form contract and paying extra consideration for insurance should be advised of fine print clauses which deny the insurance coverage in specific circumstances - Whether the party drafting exclusionary clauses can rely on them if they are not brought to the consumers' attention - Whether *Tilden Rent-A-Car v. Clendenning* (1978), 83 D.L.R. (3d) 400 (Ont. C.A.) applies.

24660 CLAYTON OTIS JACQUARD v. HER MAJESTY THE QUEEN (Crim.)(N.S.)

CORAM: La Forest, Cory and Major JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Criminal law - Defence - Offences - Trial by jury - Insanity - Requisite intent required for murder and for planning and deliberation - Applicant found guilty of first degree murder and attempted murder - Did the Nova Scotia Court of Appeal err in holding that the trial judge had adequately instructed the jury on the essential elements of the various issues and related material evidence to those issues and in particular on the issue of planning and deliberation? - Did the Court of Appeal err in affirming the instructions of the trial judge to the jury that the evidence could support the inference that the Applicant wiped his fingerprints from the shotgun and the further inference that could be drawn from such conduct, namely that of consciousness of guilt?

24700

CHETICAMP FISH CO-OPERATIVE LTD., HYLAND ANDERSON LOBSTER SALES LTD., JOHN ANDREW BOYD, DANIEL BOYD, GERARD MacEACHERN, VINCENT NOVAK, RONALD BOYD, LEOPOLD CHIASSON, JOSEPH BOUDREAU, GARY McKAY, BERNARD DEVEAU, JAMES H. MacDONALD, RICKY FRASER, CYRIL JEAN BURNS, JOHN BERNARD POWER, DONNY DEVEAU, SIMON BOURGEOIS, GARRIE MacLEAN, RICHARD MacINNES and ALEXANDER BEATON v. HER MAJESTY THE QUEEN IN RIGHT OF CANADA (N.S.)

CORAM: La Forest, Cory and Major JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Torts - Intentional torts - Damages - Fisheries - Whether the Respondent committed the tort of interference with contractual relations - Whether the Respondent committed the tort of intimidation - Whether the Respondent committed an abuse of authority such as was found in *Roncarelli v. Duplessis*, [1959] S.C.R. 121.

Before / Devant: LE JUGE EN CHEF LAMER

Requête pour fixer une date d'audition de l'appel; requête en prorogation du temps accordé pour la plaidoirie; requête visant à obtenir une ordonnance autorisant une réponse au mémoire de l'intimée et de l'intervenant

Motion to fix a date for the hearing of the appeal; motion for additional time to present oral argument; motion for an order to permit a response to the respondent's and to the intervener's factum

George Weldon Adams

c. (23615)

Sa Majesté La Reine et al. (Qué.)

ACCORDÉE / GRANTED

IL EST ORDONNÉ QUE:

- a) L'audition de cet appel soit fixée pour une journée entière le 5 décembre 1995;
- b) L'appelant soit autorisé à produire un mémoire de dix (10) pages en réponse aux mémoires de l'intimée et de l'intervenant au plus tard le 20 octobre 1995;
- c) La durée des plaidoiries orales soit comme suit:
 - i) Appelant - 1h 45 minutes
 - ii) Intimé - 1h 50 minutes
 - iii) Intervenant le Procureur général du Canada - 45 minutes
 - iv) Réponse de l'appelant - 15 minutes
- d) L'intimée soit autorisée à produire un mémoire d'au plus dix (10) pages en réponse aux mémoires de l'appelant et de l'intervenant au plus tard le 13 novembre 1995;
- e) Le Procureur général du Canada disposera de 45 minutes pour plaider.

11.10.1995

Before / Devant: THE REGISTRAR

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

Her Majesty The Queen

v. (24323)

Murray Calder (Ont.)

GRANTED / ACCORDÉE Time extended to October 11, 1995.

12.10.1995

Before / Devant: MAJOR J.

**Requête en prorogation du délai de dépôt du
mémoire de l'intimé**

With the consent of the parties.

**Motion to extend the time in which to apply for
leave to appeal**

Ronald Sydney Candy

v. (24902)

Her Majesty The Queen (Alta.)

**Requête en prorogation du délai pour obtenir
l'autorisation d'appel**

With the consent of the parties.

GRANTED / ACCORDÉE Time extended to October 11, 1995.

12.10.1995

Before / Devant: LE REGISTRAIRE

**Requête en prorogation du délai de dépôt du
mémoire de l'intimé**

Sa Majesté La Reine

c. (24310)

Jacques Fleurant (Qué.)

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

Avec le consentement des parties.

ACCORDÉE / GRANTED Délai prorogé au 6 octobre 1995.

12.10.1995

Before / Devant: THE REGISTRAR

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

Felice D'Amato et al.

v. (24364)

Donald Herbert Badger et al. (B.C.)

**Requête en prorogation du délai de dépôt du
mémoire de l'appelant**

With the consent of the parties.

GRANTED / ACCORDÉE Time extended to September 25, 1995.

12.10.1995

Before / Devant: THE REGISTRAR

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

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

Wendel Deward

With the consent of the parties.

v. (24363)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE Time extended to June 6, 1995 to file the case on appeal and to September 25, 1995 to file the appellant's factum.

12.10.1995

Before / Devant: THE REGISTRAR

**Motion for an order accepting the case on appeal
as tendered**

Wendel Dewald

v. (24363)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE

**Requête visant à obtenir une ordonnance
acceptant le dossier d'appel tel que déposé**

With the consent of the parties.

**APPEALS HEARD SINCE LAST ISSUE
AND DISPOSITION**

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

6.10.1995

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

Her Majesty The Queen

v. (24252)

John Richard Adams (Crim.)(Alta.)

Jack Watson, Q.C., for the appellant.

Philip G. Lister, Q.C., for the respondent.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Criminal law - Procedural law - Jurisdiction -
Publication ban - Rescission of publication ban -
Whether the trial judge erred in law in holding that he
had jurisdiction to rescind a ban on publication of the
complainant's name made pursuant to s. 486(4) of the
Criminal Code.

Nature de la cause:

Droit criminel - Droit procédural - Compétence -
Interdiction de publication - Annulation de
l'interdiction de publication - Le juge du procès a-t-il
commis une erreur de droit en se jugeant compétent
pour annuler une interdiction de publier le nom de la
plaignante ordonnée en application du par. 486(4) du
Code criminel?

6.10.1995

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

Alan M. Schwartz

Benjamin Zarnett and Carrie Smit, for the appellant.

v. (24093)

Her Majesty The Queen (Ont.)

J.S. Gill, Q.C., Susan Van Der Hout and Elizabeth
Chasson, for the respondent.

RESERVED / EN DÉLIBÉRÉ

APPEALS HEARD SINCE LAST ISSUE AND
DISPOSITION

APPELS ENTENDUS DEPUIS LA DERNIÈRE
PARUTION ET RÉSULTAT

Nature of the case:

Taxation - Assessment - Statutes - Interpretation -
Contracts.

Nature de la cause:

Imposition -- Cotisation -- Interprétation -- Contrats.

10.10.1995 to/au 11.10.95

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

Ontario Homebuilders' Association et al.

v. (24085)

York Region Board of Education et al. (Ont.)

Neil Finkelstein and Monica Kowel, for the appellants.

George Vegh, for the interveners Carlota Guzman et al.

Jane Thompson and Robert Maxwell, for the interveners Charlotte Pope et al.

Peter D. Lauwers, Janet E. Minor, Michel Y. Hélie and Martha M. MacKinnon, for the respondents.

Monique Rousseau, pour l'intervenant le procureur général du Québec.

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

Colin L. Campbell, Q.C. and Gordon F. Willcocks, for the intervener the Ontario Public School Boards' Association.

Peter D. Lauwers, for the intervener the Ontario Separate School Trustees' Association

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Constitutional law - Division of powers - *Canadian Charter of Rights and Freedoms* - Civil rights - Procedural law - Parties - Standing - Municipal law - Schools - *Development Charges Act*, R.S.O. 1990, c. D.9 - Are persons subject to an education tax entitled to standing to challenge the tax as contrary to the *Constitution Act* and the *Charter*? - Whether educational development charges (EDCs) that do not guarantee proportionality to separate school supporters in Ontario infringe s. 93(1) of the *Constitution Act* - Are EDCs sufficiently integrated with land development regulatory scheme to avoid s. 92(2) of the *Constitution Act*? - Is legislation which empowers a separate school board to tax on separate school supporters immune from *Charter* review?

Nature de la cause:

Droit constitutionnel - Partage des compétences - *Charte canadienne des droits et libertés* - Libertés publiques - Droit procédural - Parties - Qualité pour agir - Droit municipal - Écoles - *Loi sur les redevances d'exploitation*, L.R.O. 1990, ch. D.9 - Les personnes assujetties à un impôt scolaire ont-elles qualité pour contester un impôt qu'elles allèguent être contraire à la *Loi constitutionnelle* et à la *Charte*? - Les redevances d'exploitation relatives à l'éducation (REE) qui ne garantissent pas la proportionnalité aux partisans de l'école séparée en Ontario portent-elles atteinte au par. 93(1) de la *Loi constitutionnelle*? - Les REE sont-elles suffisamment intégrées au régime de réglementation en matière d'exploitation à des fins immobilières pour être soustraites à l'application du par. 92(2) de la *Loi constitutionnelle*? - La Loi qui confère à une commission scolaire des écoles séparées le pouvoir d'imposer les partisans de l'école séparée est-elle à l'abri d'un contrôle fondé sur la *Charte*?

11.10.1995

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

James Lee Brydon

v. (24554)

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

Richard C.C. Peck, Q.C., and Ms. Letitia Sears, for
the appellant.

Wendy Rubin, for the respondent.

THE CHIEF JUSTICE (orally) -- The appeal is
allowed and a new trial is ordered. Reasons to follow.

LE JUGE EN CHEF (oralement) -- Le pourvoi est
accueilli et un nouveau procès est ordonné. Motifs
à suivre.

12.10.1995

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

Dr. Martin L. Cohnstaedt

v. (24146)

University of Regina (Sask.)

A. John Beke, Q.C. and James Nugent, for the
appellant.

Gordon J. Kuski, Q.C. and Erin M.S. Kleisinger, for
the respondent.

ALLOWED / ACCORDÉ

APPEALS HEARD SINCE LAST ISSUE AND
DISPOSITION

APPELS ENTENDUS DEPUIS LA DERNIÈRE
PARUTION ET RÉSULTAT

Nature of the case:

Torts - Damages - Assessment.

Nature de la cause:

Responsabilité délictuelle - Dommages-intérêts -
Évaluation.

12.10.1995

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

Her Majesty The Queen

v. (24056)

Province of Alberta Treasury Branches

and between

Her Majesty The Queen

v.

Province of Alberta Treasury Branches

and between

Her Majesty The Queen

v.

The Toronto-Dominion Bank (Alta.)

Edward R. Sojonky, Q.C. and Michael J. Lema, for the appellants.

No one appearing, for the respondent Province of Alberta Treasury Branches (Land-Rock Resources Ltd.)

No one appearing, for the respondent Province of Alberta Treasury Branches (Country Inns Inc.)

Jeffery D. Vallis and C. Bryce Code, for the respondent the Toronto-Dominion Bank.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Commercial law - Taxation - Customs and excise - Creditors & debtor - Statutes - Interpretation - Bills of exchange - Garnishment - Priority of claims - Whether the holder of a general assignment of book debts is a "secured creditor" within the meaning of ss. 224 of the *Income Tax Act* and 317 of the *Excise Tax Act*, which permit the Appellant to issue a garnishment notice to collect unremitted employee source deductions and Goods and Services Tax, respectively, and provide that monies owing to a tax debtor by a third party in receipt of such a notice become the Appellant's property in priority to the claims of "secured creditors".

Nature de la cause:

Droit commercial - Taxes - Douanes et accise - Créanciers et débiteurs - Lois - Interprétation - Lettres de change - Saisie-arrêt - Priorité de réclamations - Le détenteur d'une cession générale de comptes débiteurs est-il un «créancier garanti» au sens des art. 224 de la *Loi de l'impôt sur le revenu* et 317 de la *Loi sur la taxe d'accise* qui permettent à l'appelante d'émettre un avis de saisie-arrêt pour recouvrer des arrérages de retenues à la source et de taxe sur les produits et services, respectivement, et qui prévoient que les sommes dues à un débiteur fiscal par un tiers qui a reçu cet avis deviennent la propriété de l'appelante prenant rang avant les réclamations des «créanciers garantis»?

WEEKLY AGENDA

ORDRE DU JOUR DE LA SEMAINE

AGENDA for the week beginning October 16, 1995.
ORDRE DU JOUR pour la semaine commençant le 16 octobre 1995.

Date of Hearing/
Date d'audition

Case Number and Name/
Numéro et nom de la cause

The Court is not sitting this week

La Cour ne siège pas cette semaine

NOTE:

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

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

DEADLINES: MOTIONS

DÉLAIS: REQUÊTES

BEFORE THE COURT:

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 : November 6, 1995

Service : October 16, 1995
Filing : October 23, 1995
Respondent : October 30, 1995

Motion day : December 4, 1995

Service : November 13, 1995
Filing : November 20, 1995
Respondent : November 27, 1995

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 : 6 novembre 1995

Signification : 16 octobre 1995
Dépôt : 23 octobre 1995
Intimé : 30 octobre 1995

Audience du : 4 décembre 1995

Signification : 13 novembre 1995
Dépôt : 20 novembre 1995
Intimé : 27 novembre 1995

DEADLINES: APPEALS

The fall session of the Supreme Court of Canada will commence January 22, 1996.

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 four months of the filing of the notice of appeal. For appeals in which the notice of appeal was filed before July 26, 1995, the factum must be filed within five months.

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 four weeks of the date of service of the respondent's factum. For appeals in which the notice of appeal was filed before July 26, 1995, the factum must be filed within two weeks.

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 1996 session November 28 1995.

DÉLAIS: APPELS

La session d'automne de la Cour suprême du Canada commencera le 22 janvier 1996.

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'appellant doit être déposé dans les quatre mois du dépôt de l'avis d'appel. Pour les appels dont l'avis d'appel a été déposé avant le 26 juillet 1995, le mémoire doit être déposé dans les cinq mois.

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

Le mémoire de l'intervenant doit être déposé dans les quatre semaines suivant la signification de celui de l'intimé. Pour les appels dont l'avis d'appel a été déposé avant le 26 juillet 1995, le mémoire doit être déposé dans les deux semaines.

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 28 novembre 1995, le registraire mettra au rôle de la session de janvier 1996 tous les appels inscrits pour audition.

