

**SUPREME COURT
OF CANADA**

**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

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October 11, 1996

1671 - 1729

le 11 octobre 1996

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FILING DATE 27.9.1996

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FILING DATE 20.9.1996

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Wolch, Pinx, Tapper, Scurfield

v. (25508)

G. (D.F.) (Man.)

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FILING DATE 4.10.1996

Michael Dibben

Pierre Poupart
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DATE DE PRODUCTION 27.9.1996

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

Commander C.J. Price
National Defence Headquarters

FILING DATE 25.9.1996

Eric Blagrove

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c. (25510)

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Louis Bouthillier

DATE DE PRODUCTION 27.9.1996

Commonwealth Investors Syndicate Ltd.

John Douglas Shields
John Douglas Shields Law Corp.

v. (25416)

Canada Deposit Insurance Corp. et al. (B.C.)

Ralph Sahrman
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FILING DATE 25.9.1996

Denis Boyer

Gilles Grégoire
Grégoire, Nadeau, Morin

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DATE DE PRODUCTION 1.10.1996

Kevin Allen Whynder
Robert McCleave
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Public Prosecution Service

FILING DATE 30.9.1996

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DATE DE PRODUCTION 27.9.1996

Jean-Louis Parcigneau
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DATE DE PRODUCTION 30.9.1996

Duha Printers (Western) Ltd.
Eleanor R. Dawson, Q.C.
Aikins, MacAulay & Thorvaldson

v. (25513)

Her Majesty The Queen (F.C.A.)
Robert Gosman
Dept. of Justice

FILING DATE 27.9.1996

Smith & Nephew Inc. et al.
Brian A. Crane, Q.C.
Gowling, Strathy & Henderson

v. (25514)

Glen Oak Inc. et al. (F.C.A.)
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Macbeth & Johnson

FILING DATE 30.9.1996

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Nicolas Concettini

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Danielle Gilbert

DATE DE PRODUCTION 1.10.1996

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**Michel Dupuy, in his capacity as the Minister of
Canadian Heritage et al. (F.C.A.)**

Kirk N. Lambrecht
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FILING DATE 2.10.1996

Lawrence Ginsberg

David J. Rotfleisch
Rotfleisch & Samulovitch

v. (25520)

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

Jean-Paul Mallette
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FILING DATE 3.10.1996

Her Majesty The Queen

S. Patricia Lee
Dept. of Justice

v. (25521)

Continental Bank of Canada (F.C.A.)

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FILING DATE 3.10.1996

**Canadian Newspaper Co. Ltd. doing business as
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George K. Macintosh, Q.C.
Farris, Vaughan, Wills & Murphy

v. (25522)

Francisco Nota Moises (B.C.)

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FILING DATE 3.10.1996

Maria Dilalla

Gordon M. Selig

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Huguette Girard
Jalbert, Séguin, Verdon, Caron, Mahoney

DATE DE PRODUCTION 4.10.1996

Ontario Hydro

Eric R. Finn
Ontario Hydro - Law Division

v. (25524)

Youssef Hanna Dableh (F.C.A.)

Donald M. Cameron
Smith, Lyons, Torrance

FILING DATE 4.10.1996

**APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST ISSUE**

DEMANDES SOUMISES À LA COUR DEPUIS LA DERNIÈRE PARUTION

OCTOBER 7, 1996 / LE 7 OCTOBRE 1996

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

Wayne Alexander Perkin

v. (25313)

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

NATURE OF THE CASE

Criminal law - Evidence - Unreasonable verdict - s. 686(1)(a)(i) *Criminal Code* - Whether the verdict was unreasonable and not supported by the evidence - Whether the trial judge erred in assessing the credibility and reliability of witnesses - Whether the trial judge erred in his apprehension or appreciation of the evidence - Whether the verdict was unsafe as it was based on unreliable evidence.

PROCEDURAL HISTORY

May 26, 1994
Supreme Court of British Columbia (Josephson J.)

Conviction: second degree murder

March 4, 1996
Court of Appeal for British Columbia
(Carrothers, Prowse and Ryan JJ.A.)

Appeal dismissed

August 15, 1996
Supreme Court of Canada

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

**The Minister of Finance for the Province of New Brunswick
and the Provincial Sales Tax Commissioner for the Province of New Brunswick**

v. (25427)

**Union of New Brunswick Indians and Paul David Leonard Tomah, suing on his own behalf
and on behalf of all New Brunswick Indian Bands and their members (N.B.)**

NATURE OF THE CASE

Indians - Taxation - Exemption - Personalty on a reserve - Whether personal property purchased at an off-reserve location by an Indian or an Indian band but intended for ownership, possession, use or consumption on a reserve falls within the meaning of the words 'situated on a reserve' as contained in s. 87(1)(b) of the *Indian Act*, R.S.C. 1985, c. I-5, and are therefore exempt from taxation under the *Social Services and Education Tax Act*, R.S.N.B. 1973, c. S-10.

PROCEDURAL HISTORY

May 24, 1994
Court of Queen's Bench of New Brunswick (Savoie J.)

Respondents' application dismissed

May 28, 1996
Court of Appeal of New Brunswick (Hoyt C.J.N.B.,
Rice, Ryan, Turnbull and Bastarache, JJ.A.)

Appeal allowed

July 9, 1996
Supreme Court of Canada

Application for leave to appeal filed

Lloyd Janes

v. (25357)

The Town of Deer Lake (Nfld.)

NATURE OF THE CASE

Procedural law - Municipal Law - Whether lower courts correct in dismissing action on basis of doctrine of *res judicata* - Does *Bill of Rights* apply?

PROCEDURAL HISTORY

October 30, 1991
Supreme Court of Newfoundland (Woolridge J.)

Applicant's action dismissed

March 18, 1993
Court of Appeal
(O'Neill, Marshall and Cameron JJ.A.)

Appeal dismissed

June 3, 1994

Supreme Court of Newfoundland (Roberts J.)

Statement of claim struck out

May 29, 1995
Court of Appeal
(Gushue, Mahoney and Cameron JJ.A.)

Appeal dismissed

May 15, 1996
Supreme Court of Canada

Application for leave to appeal filed

**CORAM: La Forest, Cory and Major JJ. /
Les juges La Forest, Cory et Major**

Bounnam Kong Chung

v. (25410)

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

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Extradition - Constructive murder - First degree murder - Whether surrender of Applicant to United States to face charges of felony murder (constructive murder) violates s. 7 of the Charter - Whether the Minister of Justice required to seek formal assurances under Article 6 of the Extradition Treaty between Canada and the United States of America that death penalty will not be sought - Whether the Minister of Justice erred in surrendering the Applicant to United States to face charges of first degree murder when the United States presented no evidence that the Applicant committed such offence.

PROCEDURAL HISTORY

April 3, 1995
Ontario Court (General Division) (Ewaschuk J.)

Appellant committed for surrender to the United States

August 30, 1995
Minister of Justice

Decision to surrender Applicant to United States

June 19, 1996
Court of Appeal for Ontario
(Houlden, McKinlay and Moldaver JJ.A.)

Application for judicial review dismissed

July 18, 1996
Supreme Court of Canada

Application for leave to appeal filed

Apotex Inc.

v. (25348)

Eli Lilly and Company and Eli Canada Inc.

- and -

The Minister of National Health and Welfare (F.C.A.)(Ont.)

NATURE OF THE CASE

Commercial law - Contracts - Sub-licence - Evidence - Property law - Patents - Whether the Federal Court of Appeal erred in its construction of the contract between Apotex and Novopharm, the construction of which was agreed to by the parties to the agreement but challenged by a stranger to the contract, when the construction agreed to by the parties was

supportable on the plain meaning of the contract - Whether agreements drawn by the parties to the agreements without counsel should be interpreted according to different principles than agreements drawn by counsel.

PROCEDURAL HISTORY

February 9, 1995
Federal Court of Canada (Trial Division)
(McGillis J.)

Application for judicial review allowed; Minister for National Health and Welfare prohibited from issuing a Notice of Compliance to Apotex Inc. until after the expiration of Canadian Patent Nos. 1,166,248 and 1,221,369

April 1, 1996
Federal Court of Appeal
(Pratte, MacGuigan and Robertson JJ.A.)

Appeal dismissed

May 31, 1996
Supreme Court of Canada

Application for leave to appeal filed

Novopharm Limited

v. (25402)

**Eli Lilly and Company, and
Eli Lilly Canada Inc.**

- and -

The Minister of National Health and Welfare (F.C.A.)(Ont.)

NATURE OF THE CASE

Commercial law - Contracts - Sub-licence - Evidence - Property law - Patents - Whether the Federal Court of Appeal erred in its construction of the contract between Apotex and Novopharm, the construction of which was agreed to by the parties to the agreement but challenged by a stranger to the contract, when the construction agreed to by the parties was supportable on the plain meaning of the contract - Whether the Federal Court of Appeal erred in considering themselves bound by the prior decision in *Apotex Inc. v. Eli Lilly* (1996), 66 C.P.R. (3d) 329 (F.C.A).

PROCEDURAL HISTORY

February 9, 1996
Federal Court of Canada (Trial Division) (McGillis J.)

Application for judicial review dismissed

April 24, 1996
Federal Court of Appeal
(Stone, MacGuigan and McDonald JJ.A.)

Appeal allowed; Minister for National Health and Welfare prohibited from issuing a Notice of Compliance to Novopharm Limited for 150mg and 300mg capsules of nizatidine until after the expiration of Canadian Patent Nos. 1,166,248 and 1,221,369

June 24, 1996
Supreme Court of Canada

Application for leave to appeal file

Apotex Inc.

v. (25419)

Merck Frosst Canada Inc. and Merck and Co. Inc.

- and -

The Minister of National Health and Welfare and Kyorin Pharmaceutical Co., Ltd. (F.C.A.)(Ont.)

NATURE OF THE CASE

Commercial law - Contracts - Sub-licence - Evidence - Property law - Patents - Whether the Federal Court of Appeal erred in its construction of the contract between Apotex and Novopharm, the construction of which was agreed to by the parties to the agreement but challenged by a stranger to the contract, when the construction agreed to by the parties was supportable on the plain meaning of the contract - Whether agreements drawn by the parties to the agreements without counsel should be interpreted according to different principles than agreements drawn by counsel - Whether the Federal Court of Appeal erred in considering themselves bound by the prior decision in *Apotex Inc. v. Eli Lilly* (1996), 66 C.P.R. (3d) 329 (F.C.A) - If the contract is not a sub-licence, whether the allegations of non-infringement were premature.

PROCEDURAL HISTORY

December 20, 1995
Federal Court of Canada (Trial Division)
(Simpson J.)

Application for judicial review allowed; Minister of
National Health and Welfare prohibited from issuing a
Notice of Compliance to Apotex Inc. for Norfloxacin
until after the expiry of Canadian Patent No. 1,178,961

May 8, 1996
Federal Court of Appeal
(Strayer, Décary and McDonald JJ.A)

Appeal dismissed

July 8, 1996
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**

Chander Prabha Walia

v. (25415)

Thai Airways International Limited (B.C.)

NATURE OF THE CASE

Procedural law - Civil procedure - Actions - Appeal - Costs - Motion for extension of time for filing three notices of appeal dismissed - Respondent's application to have the notices of appeal struck out allowed - Whether the Court of Appeal for British Columbia erred in dismissing the Applicant's application to vary the order of the chambers' judge.

PROCEDURAL HISTORY

February 6, 1995 Supreme Court of British Columbia (Baker J.)	Applicant's motion for an order that the action be transformed into a representative action dismissed; increased costs awarded to the Respondent
March 17, 1995 Supreme Court of British Columbia (Baker J.)	Respondent's motion to settle the order of February 6, 1995, granted; costs in the amount of \$1,884.86 payable forthwith awarded to the Respondent
June 22, 1995 Supreme Court of British Columbia (Master Doolan)	Respondent's motion to have the Applicant's claim dismissed for failure to comply with the orders of Baker J. granted under conditions
September 8, 1995 Supreme Court of British Columbia (Dillon J.)	Order that Applicant's application for reconsideration of Master Doolan's order be submitted to Master Doolan upon payment of the outstanding costs order of Baker J.
October 20, 1995 Supreme Court of British Columbia (Holmes J.)	Applicant's appeal of Master Doolan's order and reconsideration of the decisions of Baker J. and Dillon J. dismissed
January 26, 1996 Court of Appeal for British Columbia (Wood J.A.)	Motion for extension of time for filing three notices of appeal against the orders of Baker J. and Dillon J. dismissed; Respondent's application to have the notices of appeal struck out allowed
April 19, 1996 Court of Appeal for British Columbia (Goldie, Ryan and Donald JJ.A.)	Application to vary the order of Wood J.A. dismissed
July 2, 1996 Supreme Court of Canada	Application for leave to appeal
August 26, 1996 Supreme Court of Canada	Application for an extension of time filed

Gilles Patenaude

c. (25463)

Ville de Longueuil

et

Procureur général du Québec (Qué.)

NATURE DE LA CAUSE

Droit constitutionnel - Procédure - Conduite d'un véhicule sans ceinture de sécurité - Aveu de culpabilité du demandeur - Objection préliminaire portant que l'article 396 du *Code de la sécurité routière*, L.R.Q. ch. C-24, est contraire au deuxième paragraphe du préambule de la *Charte des droits et libertés de la personne* du Québec, L.R.Q. ch. C-12 - Objection rejetée - Appel de la déclaration de culpabilité du demandeur rejeté en Cour supérieure - Requête pour permission d'appel en Cour d'appel du Québec rejetée - La Cour d'appel du Québec a-t-elle commis une erreur en rejetant la requête pour permission d'appel?

HISTORIQUE PROCÉDURAL

Le 9 janvier 1996 Cour municipale (Alary J.C.M.)	Objection préliminaire rejetée; Déclaration de culpabilité: Conduite d'un véhicule routier sans ceinture de sécurité
Le 2 avril 1996	Cour supérieure du Québec

(Hébert J.C.S.)

Appel rejeté

Le 24 juillet 1996
Cour d'appel du Québec
(Baudouin, Michaud et Robert J.J.C.A.)

Requête pour permission d'appel rejetée

Le 5 septembre 1996
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Vancouver Society of Immigrant & Visible Minority Women

v. (25359)

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

NATURE OF THE CASE

Taxation - Are vagueness and uncertainty determinant factors in deciding whether the activities or purposes of an organization are charitable? - Are women a significant part of the community for the purposes of the four components of charity as enunciated by Lord Macnaghten in *The Commissioners for Special Purposes of the Income Tax Act v. John Pemsel*, [1981] A.C. 531?

PROCEDURAL HISTORY

October 14, 1994
Minister of National Revenue

Applicant's application for charitable tax status rejected

March 6, 1996
Federal Court of Appeal
(Strayer, Décary and Linden J.J.A.)

Appeal dismissed

June 6, 1996
Supreme Court of Canada

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

OCTOBER 8, 1996 / LE 8 OCTOBRE 1996

**CORAM: Gonthier, Cory, McLachlin, Iacobucci and Major JJ. /
Les juges Gonthier, Cory, McLachlin, Iacobucci et Major**

Shawn Trevor Wesley Laverty

v. (24822)

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

NATURE OF THE CASE

Criminal law - Defence - Statutes - Interpretation - Provocation - Self-defence - Whether the trial judge erred in failing to instruct the jury that the use of force to defend oneself is not *ipso facto* an unlawful act - Whether the trial judge erred in failing to ensure that the jury understood the onus was on the Crown to prove beyond a reasonable doubt the intent referred to in s. 229(a)(i) and (ii) of the *Criminal Code* - Whether the trial judge erred in instructing that self-defence leads to an acquittal on all charges, including manslaughter, in all circumstances - Whether the trial judge erred in failing to instruct the jury with respect to s. 37 of the *Criminal Code* to clarify the defence of self-defence generally - Whether the trial judge erred in failing to instruct the jury that "the reasonable man test" was a reasonable man of the age and characteristics of the accused - Whether the trial judge erred when he failed to answer the question of the deliberating jury seeking clarification of s. 229(a)(i) and (ii).

PROCEDURAL HISTORY

February 16, 1994
Supreme Court of British Columbia
(Braidwood J.)

Conviction: Second degree murder

June 27, 1995
Court of Appeal for British Columbia
(McEachern C.J., Southin J.A. [dissenting] and
Hollinrake J.A.)

Appeal against conviction dismissed

July 25, 1995
Supreme Court of Canada

Notice of appeal as of right filed

OCTOBER 10, 1996 / LE 10 OCTOBRE 1996

25224 **ROGER ST-LAURENT ET MICHELINE LACROIX c. DANIELE DORAIS ET VILLE DE STE-THERESE** (Qué.)

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

La demande d'autorisation d'appel est rejetée avec dépens à l'intimée Danièle Dorais.

The application for leave to appeal is dismissed with costs to the respondent Danièle Dorais.

NATURE DE LA CAUSE

Procédure - Procédure civile - Jugements et ordonnances - Chose jugée - Requête en irrecevabilité - La Cour d'appel a-t-elle erré en concluant que l'action en nullité de titre de propriété intentée par les demandeurs était irrecevable au motif que le jugement rendu en faveur de l'intimée Dorais, suite à une action que celle-ci a intentée contre la Ville, a acquis l'autorité de la chose jugée vis-à-vis les demandeurs? - Y a-t-il en l'espèce identité de parties, d'objet et de cause?

HISTORIQUE PROCÉDURAL

Le 15 juillet 1991 Cour supérieure du Québec (Lévesque j.c.s.)	Action de l'intimée Dorais contre la Ville afin de faire déclarer un règlement de zonage inopérant à son égard accueillie
Le 8 avril 1992 Cour supérieure du Québec (Macerola j.c.s.)	Requête en irrecevabilité de l'intimée Dorais contre la requête en rétractation de jugement des demandeurs rejetée
Le 22 février 1993 Cour d'appel du Québec (Tyndale, Baudouin et Delisle jj.c.a.)	Appel de l'intimée Dorais accueilli
Le 14 octobre 1993 Cour suprême du Canada (L'Heureux-Dubé, Sopinka et Gonthier jj.)	Demande d'autorisation d'appel des demandeurs rejetée
Le 19 mai 1994 Cour supérieure du Québec (Durand j.c.s.)	Requête en irrecevabilité de l'intimée Dorais accueillie et action en nullité des demandeurs rejetée au motif de chose jugée
Le 25 janvier 1996 Cour d'appel du Québec (Bisson, Deschamps et Philippon jj.c.a.)	Appel des demandeurs rejeté
Le 21 mars 1996 Cour suprême du Canada	Demande d'autorisation d'appel déposée

25158 **THE CONTINENTAL INSURANCE COMPANY ET GÉNÉRAL ACCIDENT COMPAGNIE D'ASSURANCE DU CANADA c. RÉNO-DÉPÔT INC. ET ISOLATION VAL ROYAL INC. et BOREAL ASSURANCES INC. et entre BOREAL ASSURANCES INC. c. RÉNO-DÉPÔT ET ISOLATION VAL ROYAL INC. et GÉNÉRAL ACCIDENT COMPAGNIE D'ASSURANCE DU CANADA ET THE CONTINENTAL INSURANCE COMPANY** (Qué.)

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

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

The applications for leave to appeal are dismissed with costs.

NATURE DE LA CAUSE

Droit commercial - Assurance - Assureur - Obligation de défendre et d'indemniser - Action en garantie par les installateurs contre les assureurs - Mousse isolante d'urée formaldéhyde (MIUF) - Article 2503 du *Code civil du Québec* (anciennement 2604 C.c.B.C.) - Certains assureurs ont soumis leur offre de défendre à certaines réserves - Un des assureurs a indiqué qu'il n'avait aucune obligation d'assumer les frais de défense - Refus de l'offre par l'assuré - Prétendu conflit d'intérêt - L'assuré était-il justifié de refuser l'offre? - L'obligation de défendre s'imposait-elle à l'assureur qui a indiqué qu'il n'avait aucune obligation d'assumer les frais de défense?

HISTORIQUE PROCÉDURAL

Le 13 décembre 1991
Cour supérieure du Québec
(Hurtubise j.c.q.)

Actions en dommages-intérêts à l'encontre des installateurs et fabricants à la suite de l'insufflation de MIUF rejetées; actions en garantie dirigées contre les fabricants et certaines compagnies d'assurances rejetées; actions en garantie contre la compagnie d'assurance Boréal quant à l'obligation de défendre ses assurés maintenues

Le 21 décembre 1995
Cour d'appel du Québec
(LeBel, Rousseau-Houle et Delisle j.j.c.a.)

Appels contre la partie du jugement de la Cour supérieure ayant accueilli les actions en garantie intentées contre la compagnie d'assurance Boréal seulement à l'égard de son obligation de défendre ses assurés rejetés

Appels contre la partie du jugement ayant rejeté l'action en garantie contre les compagnies d'assurances Général Accident et Continental accueillis

Le 19 février 1996
Cour suprême du Canada

Demandes d'autorisation d'appel déposées

25228

THE CANADIAN HUMAN RIGHTS COMMISSION v. CANADIAN LIBERTY NET AND TONY MCALEER (ALIAS DEREK J. PETERSON) and between CANADIAN LIBERTY NET AND TONY MCALEER (ALIAS DEREK J. PETERSON) v. THE CANADIAN HUMAN RIGHTS COMMISSION (F.C.A.)(Crim.)

CORAM: The Chief Justice and Gonthier and Iacobucci JJ.

The applications for leave to appeal are granted.

Les demandes d'autorisation d'appel sont accordées.

NATURE OF THE CASE

Procedural Law - Courts - Jurisdiction - Interlocutory Injunction granted where there was no cause of action to which the interlocutory injunction is ancillary - Whether Federal Court, Trial Division had jurisdiction to issue injunction enjoining and restraining parties from conduct alleged to violate s. 13(1) of the *Canadian Human Rights Tribunal* pending a resolution of the matter by a Canadian Human Rights Tribunal.

PROCEDURAL HISTORY

March 3, 1992
Federal Court, Trial Division (Muldoon J.)

Interlocutory injunction restraining Canadian Liberty Net and Tony McAleer

July 9, 1992
Federal Court, Trial Division (Teitelbaum J.)

Canadian Liberty Net and Tony McAleer convicted of contempt of court

January 25, 1996
Federal Court of Appeal
(Pratte, Strayer and Linden JJ.A.)

Appeal of injunction allowed; Appeal of conviction dismissed

March 25, 1996
Supreme Court of Canada

Applications for leave to appeal filed

25346 **COMITÉ CONJOINT DES MATÉRIAUX DE CONSTRUCTION** c. **LES GRILLAGES**
BOLAR (CANADA) INC. (Qué.)

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

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 du travail - Convention collective - Législation - Interprétation - Le demandeur doit-il, pour se décharger du fardeau de preuve que lui impose l'article 2.01 du *Décret sur l'industrie de la serrurerie et de la menuiserie métallique de la région de Montréal*, R.R.Q. 1981, ch. D-2, r. 35, prouver l'assujettissement de l'employeur à la *Loi sur les relations du travail dans l'industrie de la construction*, L.R.Q. 1977, ch. R-20, et particulièrement au sous-alinéa f) de son article premier? - Les objets énumérés au sous-alinéa e) de l'article 2.01 du *Décret sur l'industrie de la serrurerie et la menuiserie métallique de la région de Montréal* comprennent-ils tous les objets du même genre pour autant qu'ils constituent des ouvrages de serrurerie et de menuiserie métallique et qu'ils sont fabriqués en atelier?

HISTORIQUE PROCÉDURAL

Le 14 février 1990
Cour du Québec (chambre civile) (Marleau j.c.q.)

Action accueillie et intimée condamnée à payer au demandeur la somme de 5 391,44\$

Le 29 mars 1996
Cour d'appel du Québec (Chouinard, Tourigny
[dissidente]et Deschamps jj.c.a.)

Appel accueilli

Le 27 mai 1996
Cour suprême du Canada

Demande d'autorisation d'appel déposée

25362

PETER M. KING, ROBERT M. MORRISON, RICHARD B. CAMSELL, DON J. FLARITY and ROBERT F. SWANNELL, JOHN DOHERTY, DENNIS NIXON, BEVERLY ROSSKOPF, BRADLEY POWERS, JAMES DEARDEN, JAMES THOMPSON, EDWARD PENDLETON, BRIAN PENDLETON, PETER WOODHOUSE, ROBERT THOMAS, LAURENCE NICOLSON, BRUCE MCCOMB, IVAN WATERS, ROBERT GOVIER, IVAN BURT, GEORGE MACLEOD v. THE ATTORNEY GENERAL OF CANADA (F.C.A.)

CORAM: The Chief Justice and Gonthier and Iacobucci JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Labour law - Unemployment insurance - Did the Federal Court of Appeal err in finding that payments under the Ontario Employee Wage Protection Program are "relief grants" under the *Unemployment Insurance Regulations*?

PROCEDURAL HISTORY

May 18, 1995
Umpire (Simpson J.)

(1) Swannell group of Applicants' appeals from Unemployment Insurance Commission's decision allowed; finding that Employee Wage Protection Program payments are exempt earnings under the *Unemployment Insurance Regulations*; (2) Respondent's appeal from Unemployment Insurance Commission's decision dismissed; finding in (1) applied

April 10, 1996
Federal Court of Appeal
(Strayer, MacGuigan and Robertson JJ.A.)

Respondent's application for judicial review of both May 18, 1995 decisions allowed

June 7, 1996
Supreme Court of Canada

Application for leave to appeal filed

25442

CANADIAN BROADCASTING CORPORATION v. DR. ROBERT R. ROSS -and- HER MAJESTY THE QUEEN (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 - Procedural law - Pre-trial procedure - Subpoena *duces tecum* - Whether the Applicant should be required to produce for the Court and the Respondent a list of "out-takes" in its possession.

PROCEDURAL HISTORY

June 14, 1996
Ontario Court (General Division) (Salhany J.)

Applicant ordered to provide a list of materials in its possession within 30 days

August 13, 1996
Supreme Court of Canada

Application for leave to appeal filed

25447 **NORMAN WILLIAM HECKMAN v. HER MAJESTY THE QUEEN** (Crim.)(Alta.)

CORAM: The Chief Justice and Gonthier and Iacobucci JJ.

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

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

NATURE OF THE CASE

Criminal law - Murder - Intent - *Mens rea* - Mental disorder - Charge to jury - Whether the trial judge erred in instructing the jury that they should decide first whether murder had been committed by the Applicant and then decide whether he was not criminally responsible on account of mental disorder - Whether the trial judge adequately related evidence of mental disorder to issue of intent.

PROCEDURAL HISTORY

October 26, 1996
Court of Queen's Bench of Alberta (Girgulis J.)

Conviction: second degree murder

October 4, 1995
Court of Appeal for Alberta (Conrad, Coté, Hunt JJ.A.)

Appeal dismissed

August 16, 1996
Supreme Court of Canada

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

25184 **BRIAN GRAFF v. HER MAJESTY THE QUEEN** (Crim.)(Ont.)

CORAM: The Chief Justice and Gonthier and Iacobucci JJ.

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

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

NATURE OF THE CASE

Criminal law - Watch and beset - Whether the trial judge erred in law in finding that the Applicant had beset or watched the complainant's residence or place of employment - Whether the trial judge erred in law in finding that the Applicant possessed the intent to compel the complainant to abstain from doing anything she has a lawful right to do, or to do anything which she has a lawful right to abstain - Whether the Applicant's conduct was excused because his presence at the complainant's was for the purpose of obtaining or communicating information - Whether the trial judge erred in law in applying the legal test for criminal harassment.

PROCEDURAL HISTORY

December 3, 1993
Ontario Court of Justice (Provincial Division)
(Charles J.)

Conviction under s.423(1)(f) of the *Criminal Code*

May 31, 1994
Ontario Court of Justice (General Division) (Allen J.)

Appeal of summary conviction dismissed

October 6, 1995
Court of Appeal for Ontario
(McKinlay, Abella and Austin JJ.A.)

Further appeal dismissed

March 5, 1996
Supreme Court of Canada

Application for leave to appeal filed

25229 **FLORINDO VOLPI v. INVESTORS GROUP TRUST CO. LTD.** (Ont.)

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

Property Law - Mortgages - Action on a guarantee by a second mortgagee - Obligation of second mortgagee in possession to attempt to sell property and to inform or obtain consent of mortgagor before relinquishing possession of property to first mortgagee.

PROCEDURAL HISTORY

December 2, 1994 Ontario Court (General Division) (Paisley J.)	Summary Judgment granted to Respondent
January 26, 1996 Court of Appeal for Ontario (Morden A.C.J.O., Goodman and Finlayson JJ.A.)	Appeal dismissed
March 25, 1996 Supreme Court of Canada	Application for leave to appeal filed

25276 **BRIAN PETERSON v. HER MAJESTY THE QUEEN** (Crim.)(Ont.)

CORAM: La Forest, Cory and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Evidence - Evidence of child witness - *Canada Evidence Act*, R.S.C. 1985, c. C-5, s. 16 - Whether trial judge is required to personally ask witness questions when conducting s. 16 inquiry - Whether the trial judge had the jurisdiction to order that the child witness' father be present while witness was testifying - Whether trial judge had jurisdiction to allow child witness to give testimony while seated on her father's lap - Fresh evidence - Disclosure - Whether the prejudice test used in cases pertaining to ineffective assistance of counsel cases applies to non-disclosure cases - Whether Respondent's non-disclosure compromised the Applicant's right to make full answer and defence.

PROCEDURAL HISTORY

January 14, 1993 Ontario Court (General Division) (Poulin J.)	Conviction: two counts of sexual assault, one count of invitation of sexual touching and one count of sexual touching
February 29, 1996 Court of Appeal for Ontario (Brooke, Osborne and Weiler JJ.A)	Appeal dismissed
April 18, 1996 Supreme Court of Canada	

Application for leave to appeal filed

25241 **KERRY DELAIR COLLINS v. HER MAJESTY THE QUEEN** (Crim.)(Alta.)

CORAM: La Forest, Cory and Major JJ.

The application for extension of time is dismissed.

La demande de prorogation de délai est rejetée.

NATURE OF THE CASE

Criminal law - Procedure - Trial - Self-Incrimination - Whether Crown's reference to Applicant's failure to testify violates s. 4(6) of the *Canada Evidence Act* - Whether the trial judge erred in denying Applicant's motion to re-open trial to allow him to testify.

PROCEDURAL HISTORY

February 17, 1994
Court of Queen's Bench of Alberta
(Perras J.)

Conviction:sexual assault with weapon, kidnapping,
sexual assault causing bodily harm, anal intercourse
and uttering threats

January 31, 1996
Court of Appeal of Alberta
(Belzil, O'Leary and Picard JJ.A.)

Appeal dismissed

April 29, 1996
Supreme Court of Canada

Application for leave to appeal filed

25254 **QUANG HONG LE v. HER MAJESTY THE QUEEN** (Crim.)(Alta.)

CORAM: La Forest, Cory and Major JJ.

The application for extension of time is granted, and the motion to adduce fresh evidence and the application for leave to appeal are dismissed.

La demande de prorogation de délai est accordée, et la requête pour déposer de nouvelles preuves et la demande d'autorisation d'appel sont rejetées.

NATURE OF THE CASE

Criminal law - Evidence - Fresh evidence - Applicant now confesses to having perjured himself at trial - Should Applicant be able to change his trial testimony - Whether the verdict was unreasonable or cannot be supported on the evidence.

PROCEDURAL HISTORY

April 14, 1994
Court of Queen's Bench of Alberta (Sinclair J.)

Conviction: second degree murder (ss.235(1));
attempted murder (s.239)

October 5, 1995
Court of Appeal of Alberta
(Irving, Cote and Hunt JJ.A)

Appeal dismissed

April 3, 1996
Supreme Court of Canada

Application for leave to appeal filed

25277

J.M. WATTS POULTRY LTD., KIM SLACK, carrying on business as ONTARIO CHICKEN, DAC CHECKER PRODUCE LTD. and SCOTT HOLT, carrying on business as BRANT POULTRY v. THE ONTARIO CHICKEN PRODUCERS' MARKETING BOARD (Crim.)(Ont.)

CORAM: La Forest, Cory and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Seizure - *Provincial Offences Act*, R.S.O. 1980, c.400 - Did the Court of Appeal fail to give effect to the statutory provisions and the common law jurisprudence with respect to the validity of the warrants in the circumstances of this case - Did the majority of the Ontario Court of Appeal err in characterizing the deponents' failure to depose to their belief in the facts alleged or to indicate the source of the facts to which they deposed as a technical error - In the alternative, did the Court of Appeal err in failing to determine or rule on whether reasonable grounds to issue the search warrants existed - In the alternative, did the Court of Appeal err in failing to determine or rule that the information contained sufficient detail to conclude that the documents sought to be seized would afford evidence with respect to the commission of the offence alleged?

PROCEDURAL HISTORY

June 30, 1995
Ontario Court (General Division) (Browne J.)

Application to quash a series of search warrants dismissed

February 16, 1995
Court of Appeal for Ontario
(Robins, Labrosse and Moldaver JJ.A)

Appeal dismissed

April 15, 1996
Supreme Court of Canada

Application for leave to appeal filed

25257

PUBLIC SERVICE ALLIANCE OF CANADA v. HER MAJESTY THE QUEEN IN RIGHT OF CANADA, as represented by TREASURY BOARD (F.C.A.)

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

Labour law - Administrative law - Collective agreement - *Public Service Staff Relations Act* - Identification of positions as managerial or confidential - Exclusion from bargaining unit - Anti-union animus - Judicial review - Standard of review - No privative clause.

PROCEDURAL HISTORY

April 26, 1995
Public Service Staff Relations Board

Confirmed the identification of managerial or confidential positions pursuant to s. 5.2 *Public Service Staff Relations Act*, R.S.C. 1985, c.P-35

February 9, 1996
Federal Court of Appeal (MacGuigan [dissenting]
Pratte and Stone JJ.A.)

Application dismissed

April 9, 1996
Supreme Court of Canada

Application for leave to appeal filed

25264 **JAMES J. NOWLAN v. MIDLAND TRANSPORT LTD., a body corporate carrying on business under the name and style of POLAR BEAR TRANSPORT** (N.B.)

CORAM: La Forest, Cory and Major JJ.

The application for leave to appeal and the other related motions are dismissed with costs.

La demande d'autorisation d'appel et les autres requêtes connexes sont rejetées avec dépens.

NATURE OF THE CASE

Commercial law - Contracts - Damages - Principal/Independent contractor - Material breach of contract.

PROCEDURAL HISTORY

November 14, 1994
Court of Queen's Bench of New Brunswick (Trial
Division, Savoie J.)

Applicant's action dismissed

February 12, 1996
Court of Appeal of New Brunswick
(Rice [dissenting], Ayles and Bastarache JJ.A)

Appeal allowed

April 11, 1996
Supreme Court of Canada

Application for leave to appeal filed

25204 **COMPANHIA SIDERURGICA NACIONAL v. CANADIAN INTERNATIONAL TRADE TRIBUNAL, DOFASCO INC., STELCO INC., SOREVCO AND CO. LTD. and ATTORNEY GENERAL OF CANADA** (F.C.A.)

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

Administrative law - International law - Jurisdiction of administrative tribunal - *Special Import Measures Act*, R.S.C. 1985, c. S-15 - Cumulative multinational effect of dumping on Canadian steel industry - Whether Tribunal exceeded its jurisdiction in considering that dumping outside of the period of inquiry established by the Deputy Minister has caused, is causing or is likely to cause injury to the production in Canada of like goods - Whether tribunal erred in applying decision in *Hitachi v. Anti-Dumping Tribunal* - Whether Tribunal erred in failing to grant country exclusion to Applicant where Applicant's exports negligible according to international standards.

PROCEDURAL HISTORY

July 29, 1994
Canadian International Trade Tribunal
(Eyton, Trudeau, Coates)

Determination by Tribunal that dumping caused
material injury

August 15, 1994
Canadian International Trade Tribunal
(Eyton, Trudeau, Coates)

Determination by Tribunal that dumping caused
material injury

January 16, 1996
Federal Court of Appeal
(Pratte, Marceau, Décary)

Application for judicial review dismissed

March 15, 1996
Supreme Court of Canada

Application for leave to appeal filed

25317 **LILY KAMPMAN v. THE ATTORNEY GENERAL OF CANADA** (F.C.A.)

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

Administrative law - Duty to act fairly - Whether a duty to act fairly arises when an administrative decision maker makes a recommendation when there is the potential for significant adverse consequences for the person concerned - Whether a duty of fairness arose in the context of a recommendation to release under s. 31 of the *Public Service Employment Act*, R.S.C. 1985, c. P-33, as rep. S.C. 1992, c. 94 - If there was a duty of fairness, whether it was breached - Whether the right to procedural fairness was fully protected by the inquiry and hearing held pursuant to s. 31 of the *Public Service Employment Act* - Whether the internal grievance procedures prescribed by s. 91 of the *Public Service Staff Relations Act* served to rectify or cure the breach.

PROCEDURAL HISTORY

September 15, 1994
Federal Court (Trial Division) (Strayer J.)

Application for judicial review dismissed

April 1, 1996
Federal Court of Appeal
(Marceau, Linden and Robertson JJ.A)

Appeal allowed

May 18, 1996
Supreme Court of Canada

Application for leave to appeal filed

25330 **RANDY MISIR v. WILLIAM J. McCORMACK, CHIEF OF POLICE, METROPOLITAN
TORONTO POLICE FORCE** (Ont.)

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

Procedural law - Summary dismissal of Applicant's action - Whether Court of Appeal for Ontario erred in failing to admit the fresh evidence tendered by the Applicant - Whether lower courts erred in concluding that there was no genuine issue for trial - Whether Court of Appeal erred in failing to apply principles of equity in the circumstances of this case.

PROCEDURAL HISTORY

July 15, 1994 Ontario Court (General Division) (Wright J.)	Actions against Respondents summarily dismissed
March 25, 1996 Court of Appeal for Ontario (Osborne, Abella and Moldaver JJ.A.)	Appeal dismissed
May 24, 1996 Supreme Court of Canada	Application for leave to appeal filed

25335 **CHIEF CHERI NOBLE, on her own behalf and on behalf of all the members of the KLAHOOSE FIRST NATION v. THE MINISTER OF FORESTS FOR THE PROVINCE OF BRITISH COLUMBIA, INTERNATIONAL FOREST PRODUCTS LTD. and WELDWOOD OF CANADA LTD.** (B.C.)

CORAM: La Forest, Cory and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Administrative law - Judicial review - Prerogative writs - Quashing Minister's consent - Whether the Court of Appeal for British Columbia erred in law in failing to find that the Chambers Judge at first instance erred; in misconstruing his discretion to decline to grant a remedy on the basis of a "balance of prejudice" test; in failing to give adequate weight to the prejudice to the Applicant caused by the Minister's breach of his promise and his duty to act fairly; in assigning undue weight to the risk of prejudice to the Respondents.

PROCEDURAL HISTORY

September 21, 1995 Supreme Court of British Columbia (MacKenzie J.)	Petition to quash Minister of Forests's consent to transfer of tree farm licence dismissed
March 20, 1996 Court of Appeal for British Columbia (Hinds, Prowse and Newbury JJ.A.)	Appeal dismissed
May 21, 1996 Supreme Court of Canada	Application for leave to appeal filed

25231 **COMMUNAUTÉ URBAINE DE QUÉBEC, VILLE DE QUÉBEC ET VILLE DE STE-FOY c. SEARS CANADA INC.** (Qué.)

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

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

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

NATURE DE LA CAUSE

Droit municipal - Droit fiscal - Évaluation - Législation - Interprétation - Valeur locative d'une place d'affaires - Art. 190 de la *Loi sur la fiscalité municipale*, L.R.Q. 1977, ch. F-2.1 - La Cour d'appel du Québec a-t-elle erré en décidant que les frais d'exploitation et les taxes foncières à inclure dans le calcul de la valeur locative, en vertu de l'art. 190 de la *Loi*, doivent être déterminés en fonction du marché et non en fonction des frais d'exploitation et taxes foncières réels de l'unité d'évaluation en litige?

HISTORIQUE PROCÉDURAL

Le 7 juillet 1989 Bureau de révision de l'évaluation foncière du Québec, section du Québec	Plaintes déposées par l'intimée à l'encontre de l'évaluation locative accueillies
Le 8 mars 1991 Cour du Québec, chambre civile (Verge j.c.q.)	Appel rejeté
Le 26 janvier 1996 Cour d'appel du Québec (LeBel, Rousseau-Houle et Delisle jj.c.a.)	Appel rejeté
Le 26 mars 1996 Cour suprême du Canada	Demande d'autorisation d'appel déposée
Le 10 avril 1996 Cour suprême du Canada	Requête en prorogation de délai déposée

**25232/25233/
25234/25237** **COMMUNAUTÉ URBAINE DE QUÉBEC ET VILLE DE STE-FOY c. HUDSON'S BAY COMPANY et entre COMMUNAUTÉ URBAINE DE QUÉBEC ET VILLE DE QUÉBEC c. HUDSON'S BAY COMPANY et entre COMMUNAUTÉ URBAINE DE QUÉBEC ET VILLE DE SAINTE-FOY c. HUDSON'S BAY (ZELLERS INC.) et entre COMMUNAUTÉ URBAINE DE QUÉBEC ET VILLE DE QUÉBEC c. HUDSON'S BAY COMPANY (ZELLERS LTD)** (Qué.)

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

Les demandes de prorogation de délai sont accordées et les demandes d'autorisation d'appel sont rejetées avec dépens.

The applications for an extension of time are granted and the applications for leave to appeal are dismissed with costs.

NATURE DE LA CAUSE

Droit municipal - Droit fiscal - Évaluation - Législation - Interprétation - Valeur locative d'une place d'affaires - Art. 190 de la *Loi sur la fiscalité municipale*, L.R.Q. 1977, ch. F-2.1 - La Cour d'appel du Québec a-t-elle erré en décidant que les frais d'exploitation et les taxes foncières à inclure dans le calcul de la valeur locative, en vertu de l'art. 190 de la *Loi*, doivent être déterminés en fonction du marché et non en fonction des frais d'exploitation et taxes foncières réels de l'unité d'évaluation en litige?

HISTORIQUE PROCÉDURAL

Le 3 mai 1993 Bureau de révision de l'évaluation foncière du Québec, section du Québec	Plaintes déposées par l'intimée à l'encontre de l'évaluation locative accueillies
Le 27 mai 1994 Cour du Québec, chambre civile (St-Hilaire j.c.q.)	Appels rejetés
Le 26 janvier 1996 Cour d'appel du Québec (LeBel, Rousseau-Houle et Delisle jj.c.a.)	Appels rejetés
Le 26 mars 1996 Cour suprême du Canada	Demandes d'autorisation d'appel déposées
Le 10 avril 1996	Cour suprême du Canada

Requête en prorogation de délai déposée

25235 **COMMUNAUTÉ URBAINE DE QUÉBEC ET VILLE DE QUÉBEC c. S.S. KRESGE CO. LIMITED** (Qué.)

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

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

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

NATURE DE LA CAUSE

Droit municipal - Droit fiscal - Évaluation - Législation - Interprétation - Valeur locative d'une place d'affaires - Art. 190 de la *Loi sur la fiscalité municipale*, L.R.Q. 1977, ch. F-2.1 - La Cour d'appel du Québec a-t-elle erré en décidant que les frais d'exploitation et les taxes foncières à inclure dans le calcul de la valeur locative, en vertu de l'art. 190 de la *Loi*, doivent être déterminés en fonction du marché et non en fonction des frais d'exploitation et taxes foncières réels de l'unité d'évaluation en litige?

HISTORIQUE PROCÉDURAL

Le 28 octobre 1991
Bureau de révision de l'évaluation foncière du
Québec, section du Québec

Plainte déposée par l'intimée à l'encontre de
l'évaluation locative accueillie en partie

Le 2 septembre 1992
Cour du Québec, chambre civile (Cloutier j.c.q.)

Appel des demanderesses rejeté; appel de l'intimée
accueilli

Le 26 janvier 1996
Cour d'appel du Québec
(LeBel, Rousseau-Houle et Delisle jj.c.a.)

Appel rejeté

Le 26 mars 1996
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Le 10 avril 1996
Cour suprême du Canada

Requête en prorogation de délai déposée

25236 **COMMUNAUTÉ URBAINE DE QUÉBEC ET VILLE DE STE-FOY c. OSHAWA HOLDINGS LTD.** (Qué.)

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

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

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

NATURE DE LA CAUSE

Droit municipal - Droit fiscal - Évaluation - Législation - Interprétation - Valeur locative d'une place d'affaires - Art. 190 de la *Loi sur la fiscalité municipale*, L.R.Q. 1977, ch. F-2.1 - La Cour d'appel du Québec a-t-elle erré en décidant que les frais d'exploitation et les taxes foncières à inclure dans le calcul de la valeur locative, en vertu de l'art. 190 de la *Loi*, doivent être déterminés en fonction du marché et non en fonction des frais d'exploitation et taxes foncières réels de l'unité d'évaluation en litige?

HISTORIQUE PROCÉDURAL

Le 28 octobre 1991
Bureau de révision de l'évaluation foncière du Québec, section du Québec

Plaintes déposées par l'intimée à l'encontre de l'évaluation locative accueillies en partie

Le 2 septembre 1992
Cour du Québec, chambre civile (Cloutier j.c.q.)

Appel des demanderessees rejeté; appel de l'intimée accueilli

Le 26 janvier 1996
Cour d'appel du Québec
(LeBel, Rousseau-Houle et Delisle jj.c.a.)

Appel rejeté

Le 26 mars 1996
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Le 10 avril 1996
Cour suprême du Canada

Requête en prorogation de délai déposée

25297 **GARRY HAYES v. HER MAJESTY THE QUEEN** (Crim.)(Man.)

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

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Narcotics - Procedure - Jurisdiction - Whether Manitoba courts had jurisdiction over charge of importing narcotics when narcotics entered Canada at port outside of Manitoba - Whether offence of importing a

narcotic occurred in Manitoba - *R. v. Bell*, [1983] 2 S.C.R. 471 - Sentencing - Whether Court of Appeal erred in offering Applicant option of choosing life imprisonment over 20 year prison term to benefit from earlier parole eligibility.

PROCEDURAL HISTORY

July 19, 1992 Manitoba Court of Queen's Bench (De Graves J.)	Conviction: Importation of heroin
March 7, 1996 Court of Appeal of Manitoba (Huband, Kroft and Monnin JJ.A.)	Appeal dismissed
May 3, 1996 Supreme Court of Canada	Application for leave to appeal filed

25209 **A.D.M. v. HER MAJESTY THE QUEEN** (Crim.)(Ont.)

CORAM: L'Heureux-Dubé, Sopinka and McLachlin 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

Criminal law - Evidence - Fresh evidence - Medical records - Applicant suspects that medical record exists that would contradict complainant's testimony - Whether Applicant can adduce purported medical report as fresh evidence.

PROCEDURAL HISTORY

January 14, 1993 Ontario Court (General Division) (Bolan J.)	Conviction: sexual intercourse with a person under the age of fourteen years
September 13, 1994 Court of Appeal for Ontario (Osborne, Laskin and Doherty JJ.A.)	Appeal against conviction and sentence dismissed
March 19, 1996 Supreme Court of Canada	Application for leave to appeal filed

25342 **RAYNALD BROCHU c. SA MAJESTÉ LA REINE** (Qué.)

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

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

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

NATURE DE LA CAUSE

Charte canadienne des droits et libertés - Droit criminel - Preuve - Droit à une défense pleine et entière - Choix de la poursuite de ne pas faire entendre le témoin expert - Le juge du procès a-t-il erré en rejetant la requête pour arrêt des procédures présentée par le procureur du demandeur à la clôture de la preuve de la poursuite? - Le juge du procès a-t-il erré en n'appelant pas lui-même le témoin expert par suite de la requête du procureur du demandeur qui voulait conserver son droit au contre-interrogatoire de l'expert? - La Cour d'appel a-t-elle erré en rejetant la requête pour preuve nouvelle et l'appel du demandeur? Application de l'arrêt *R. c. Stinchcombe*, [1991] 3 R.C.S. 376.

HISTORIQUE PROCÉDURAL

Le 13 janvier 1992
Cour du Québec, chambre criminelle et pénale
(Millette J.C.Q.)

Déclaration de culpabilité : menaces de causer la mort,
agression sexuelle et séquestration

Le 8 mars 1996
Cour d'appel du Québec
(Rothman, Proulx et Robert JJ.C.A.)

Requête pour nouvelle preuve rejetée;
appel rejeté

Le 28 mai 1996
Cour suprême du Canada

Demande d'autorisation d'appel et de prorogation de
délai déposée

25275 **PARKS WEST MALL LTD. v. TERRY JENNETT, STEVE SLAVIK and MARK'S WORK
WEARHOUSE LTD.** (Alta.)

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

The application for leave to appeal as well as the application to cross-appeal are dismissed with costs.

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

NATURE OF THE CASE

Commercial law - Contracts - Damages - Breach of shopping centre lease - Damages for inducing breach of lease - Mitigation of damages - Reletting of premises to new tenants - Whether Court of Appeal erred in reaching different findings of fact from those of the trial judge - Whether Court of Appeal erred in applying principles of mitigation in quantification of damages - Whether third party liable for inducing breach of lease in providing advice to party to contract.

PROCEDURAL HISTORY

June 29, 1994
Court of Queen's Bench of Alberta (Perras J.)

Judgment for Applicant

December 12, 1994
Court of Appeal of Alberta
(Lieberman, Foisy and Picard JJ.A.)

Appeal allowed in part; damages reduced

March 26, 1996
Court of Appeal of Alberta
(Lieberman, Foisy and Picard JJ.A.)

Judgment confirmed at rehearing

April 12, 1996
Supreme Court of Canada

Application for leave to appeal filed

25322 **PETER LO v. HER MAJESTY THE QUEEN** (Crim.)(B.C.)

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

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

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

NATURE OF THE CASE

Administrative law - Statutes - Statutory interpretation - Whether the *Engineers and Geoscientists Act*, R.S.B.C. 1979, c. 109, s. 24.5(1)(a) requires the Association of Professional Engineers and Geoscientists of the Province of British Columbia to consider anew whether a criminal conviction entered against a certificate holder was correctly entered.

PROCEDURAL HISTORY

November 29, 1995
Supreme Court of British Columbia (Esson J.)

Application for stay of judgment dismissed

March 18, 1996
Court of Appeal for British Columbia
(MacFarlane, Newbury and Proudfoot JJ.A)

Application to vary or discharge dismissed

May 14, 1996
Supreme Court of Canada

Application for leave to appeal filed

25341 **TU-ELL LEASING LTD. AND GRIFFIN C. LAYNE v. INSURANCE CORPORATION OF BRITISH COLUMBIA** (B.C.)

CORAM: L'Heureux-Dubé, Sopinka 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

Torts - Motor vehicles - Insurance - Statutes - Whether the Respondent had a duty to consult the Applicants prior to settling a third party action against the Applicants for which the Respondent would require indemnification under the *Insurance (Motor Vehicle) Act*, R.S.B.C., 1979, c. 204 - Whether the onus was on the Applicants to prove they had been prejudiced by the settlement.

PROCEDURAL HISTORY

January 9, 1995
Supreme Court of British Columbia
(Hardinge J.)

Application to dismiss the Respondent's claim for
want of prosecution, dismissed: application for
summary judgment granted, judgment for Respondent

March 13, 1996
Court of Appeal for British Columbia
(Goldie, Prowse and Newbury JJ.A.)

Application for leave to appeal the application to
dismiss action for want of prosecution, dismissed:
Appeal dismissed

May 10, 1996
Supreme Court of Canada

Application for leave to appeal filed

25315

**CHARLES KIELING, SECURITY HOLDER AND GRAIN PRODUCER v. THE
ATTORNEY GENERAL FOR SASKATCHEWAN, THE MEMBERS OF THE
LEGISLATURE OF SASKATCHEWAN, ROBERT MITCHELL A.G. M.L.A. OF
SASKATCHEWAN AND THE ATTORNEY GENERAL FOR CANADA, THE MEMBERS
OF PARLIAMENT OF CANADA** (Sask.)

CORAM: L'Heureux-Dubé, Sopinka 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 - Pre-trial procedure - Whether Motions Judge properly applied discretion to strike out Statement of Claim and dismiss claim for failing to disclose reasonable cause of action, as an abuse of process and because the Court of Queen's Bench of Saskatchewan lacked jurisdiction to grant some of the remedies specified in the Statement of Claim.

PROCEDURAL HISTORY

September 20, 1995
Court of Queen's Bench of Saskatchewan
(Baynton J.)

Application to strike out the statement of claim
allowed

March 5, 1996
Court of Appeal of Saskatchewan
(Tallis, Vancise and Jackson JJ.A.)

Appeal dismissed

May 6, 1996
Supreme Court of Canada

Application for leave to appeal filed

25213 **GORDON EDWARD ALLAN WADDELL v. MINISTER OF JUSTICE FOR CANADA**
(Crim.)(B.C.)

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

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Extradition - Procedure - Oaths - Whether Applicant should have been required to swear affidavit - Whether counsel should have been assigned pursuant to *Criminal Code* s. 684.

PROCEDURAL HISTORY

December 15, 1995
Supreme Court of British Columbia (Tysoe J.)

Application for *habeas corpus* dismissed.

March 7, 1996
Court of Appeal for British Columbia
(McEachern C.J.B.C. in Chambers)

Application for the appointment of counsel dismissed.

April 25, 1996
Court of Appeal for British Columbia
(Donald J.A. in Chambers)

Motion to allow Applicant access to computer equipment and library dismissed. Application for production of a transcript dismissed. Application for declaration of indigent status dismissed. Motion for extension of time granted.

May 29, 1996
Court of Appeal for British Columbia
(Goldie, Newbury and Williams JJ.A.)

Motion to dismiss appeal for failure to pursue it diligently and for failure to comply with the *Criminal Appeal Rules* granted; Application for the appointment of counsel dismissed.

June 18, 1996
Supreme Court of Canada

Application for leave to appeal filed

25288

GRAPHIC COMMUNICATIONS INTERNATIONAL UNION LOCAL 255-C AND DORAN ALLEN, WAYNE FITNESS, TIM GARDINER, ERIC GREY, LORNA HAMILTON, RICHARD LIPSCOMBE, DIANE MASKELL, RICH McLEOD, JOHN MERON, MEL OSADCHUK, STEWART ROBERTSON, ALFRED ROCH, TERRY SIMPSON, SHERILL STRAUS, DONALD TURN, BEN VERHOFF, TOM WHEATCROFT, CRAIG ZAWADA v. UNISOURCE CANADA INC. AND COAST PAPER LIMITED and REGINALD JAMES STANTON AND ASPEN HOLDINGS LTD. and RELIABLE PRINTING LTD., LACE PROPERTIES LTD. AND JAMES WALLACE (Alta.)

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

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Commercial law - Receivership - Property law - Trusts and trustees - Fiduciary duty - Does an employer owe a fiduciary duty to its employees when that employer enters into a collective agreement which imposes an obligation to make severance payments to employees terminated without cause - Does the Court have the power to give priority to the severance payment claims of the employees, ahead of the claims of other unsecured creditors of the employer, as a remedy for the breach of that duty?

PROCEDURAL HISTORY

February 18, 1994
Court of Queen's Bench of Alberta (Veit J.)

Judgment for Applicants

April 10, 1996
Court of Appeal for Alberta
(Foisy, Côté and McFadyen JJ.A.)

Judgment for Respondents

April 26, 1996
Supreme Court of Canada

Application for leave to appeal filed

24692 **A. F. V.d.A. v. HER MAJESTY THE QUEEN**(Crim.)(Man.)

CORAM: Sopinka, Gonthier, Cory, McLachlin and Iacobucci JJ.

The application for extension of time is granted and the application for rehearing is dismissed.

La demande de prorogation de délai est accordée et la demande visant à obtenir une nouvelle audition est rejetée.

3.10.1996

Before / Devant: THE REGISTRAR

Motion to extend the time in which to file a reply to the respondent's response

Requête en prorogation du délai imparti pour déposer une réplique à la réponse de l'intimé

Regina Board of Police Commissioners

With the consent of the parties.

v. (25371)

Regina Police Association Inc. et al. (Sask.)

GRANTED / ACCORDÉE Time extended to September 19, 1996.

4.10.1996

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai imparti pour déposer le dossier d'appel et les mémoires de l'appelant et de l'intimée

R.D.S.

With the consent of the parties.

v. (25063)

Her Majesty The Queen (N.S.)

GRANTED / ACCORDÉE Time is extended to file the case on appeal to October 10, 1996, the appellant's factum to November 4, 1996 and the respondent's factum to January 17, 1997.

4.10.1996

Before / Devant: LE REGISTRAIRE

Requête en acceptation d'un mémoire de demande d'autorisation de plus de 20 pages

Motion for acceptance of memorandum of argument on leave to appeal of over 20 pages

Groupe Desjardins Assurances Générales

c. (25466)

Société canadienne des postes (Qué.)

ACCORDÉE / GRANTED

7.10.1996

Before / Devant: LE REGISTRAIRE ADJOINT

Requête en prorogation du délai imparti pour déposer le mémoire de l'intervenant

Hydro-Québec et al. (Qué.)

PAR/BY: P.G. de la Saskatchewan

IN/DANS: Procureur général du Canada

c. (24652)

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

ACCORDÉE / GRANTED Délai prorogé au 25 septembre 1996.

7.10.1996

Before / Devant: THE DEPUTY REGISTRAR

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

Requête en prorogation du délai imparti pour déposer le dossier d'appel

Fotios Korkontzilas et al.

With the consent of the parties.

v. (24949)

Nick Soulos (Ont.)

GRANTED / ACCORDÉE Time is extended to October 2, 1996.

8.10.1996

Before / Devant: MAJOR J.

Motion to extend the time in which to file the interveners' factum

Requête en prorogation du délai imparti pour déposer le mémoire des intervenants

BY/PAR: B.C. Tel. et al.

IN/DANS: Opetchesht

v. (24161)

Her Majesty The Queen et al. (B.C.)

GRANTED / ACCORDÉE Time is extended to September 30, 1996.

8.10.1996

Before / Devant: THE DEPUTY REGISTRAR

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

Requête en prorogation du délai imparti pour déposer le dossier d'appel

Husky Oil Operations Ltd.

v. (24855)

Saint John Shipbuilding Ltd. et al. (Nfld.)

GRANTED / ACCORDÉE Time extended to September 27, 1996.

8.10.1996

Before / Devant: THE DEPUTY REGISTRAR

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

Raymond Roy Izony

v. (25042)

Her Majesty The Queen (B.C.)

GRANTED / ACCORDÉE Time extended to October 7, 1996.

Requête en prorogation du délai imparti pour déposer le mémoire de l'intimé

With the consent of the parties.

8.10.1996

Before / Devant: THE DEPUTY REGISTRAR

Motion to extend the time in which to file a respondent's response

C.B.C.

v. (25442)

Dr. Robert R. Ross et al. (Ont.)

GRANTED / ACCORDÉE Time extended to October 3, 1996.

Requête en prorogation du délai imparti pour déposer la réponse d'un intimé

With the consent of the parties.

7.10.1996

Before / Devant: SOPINKA J.

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

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

Dragan Zagorac

v. (25107)

Her Majesty The Queen (Alta.)

GRANTED / ACCORDÉE

The orders of the Registrar dated August 15, 1996 and the Deputy Registrar dated August 27, 1996, dismissing the application for leave as abandoned are hereby set aside.

The time for serving and filing the application for leave is hereby extended to September 21, 1996.

9.10.1996

Before / Devant: MAJOR J.

Motion for a stay of execution

Requête en vue de surseoir à l'exécution

Terence P. Ramsden

v. (25504)

The United Kingdom (Ont.)

GRANTED / ACCORDÉE The application for a stay is granted until such time as the Court has dealt with the application for leave to appeal.

10.10.1996

Before / Devant: THE DEPUTY REGISTRAR

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

Requête en prorogation du délai imparti pour déposer le mémoire de l'appelant

Gerald Allan Naud

With the consent of the parties.

v. (25309)

Her Majesty The Queen (B.C.)

GRANTED / ACCORDÉE Time extended to October 7, 1996.

27.9.1996

Eddy Solomon

c. (25515)

Sa Majesté La Reine (Crim.)(Qué.)

DE PLEIN DROIT

8.10.1996

Canadian Egg Marketing Agency

v. (25192)

Pineview Poultry Products Ltd. (N.W.T.)

8.10.1996

Paula Leeann Lewis et al.

v. (24999)

**Her Majesty The Queen in right of the Province
of B.C. (B.C.)**

9.10.1996

R. West & Assoc. Inc. et al.

v. (25193)

Telecom Leasing Canada (TLC) Ltd. (B.C.)

10.10.1996

Locksley Washington Alphonso Senior

v. (25283)

Her Majesty The Queen (Alta.)

**APPEALS HEARD SINCE LAST
ISSUE AND DISPOSITION**

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

3.10.1996

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

Andrew Sim Katz

v. (25014)

Vancouver Stock Exchange et al. (B.C.)

Gary S. Snarch and Murray Braithwaite, for the appellant.

Larry R. Jackie, for the respondent Vancouver Stock Exchange.

Mark L. Skwarok, for the respondent B.C. Securities Commission.

Donna Miller, for the intervener the A.G. of Manitoba.

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

THE CHIEF JUSTICE (orally) -- It will not be necessary to hear from the respondents. The Court is ready to give judgment and I will ask Mr. Justice Iacobucci to deliver the judgment of the Court.

LE JUGE EN CHEF (oralement) -- Nous n'avons pas besoin d'entendre les intimés et les intervenants. Nous sommes prêts à rendre jugement dès maintenant. Le jugement de la Cour sera prononcé par Monsieur le juge Iacobucci.

IACOBUCCI J. -- We agree with the B.C.C.A. that the practice of the tribunal in question is one of the many factors to consider in determining whether the necessary degree of independence is present to avoid creating a perception of reasonable apprehension of bias. *We also agree* with the B.C.C.A. that the situation in this case, particularly its self-regulatory context, is quite different from that which was present in *Matsqui*.

LE JUGE IACOBUCCI -- Nous sommes d'accord avec la Cour d'appel de la Colombie-Britannique que la pratique du tribunal en question est un des nombreux facteurs qui doivent être pris en considération pour statuer sur l'existence du degré d'indépendance nécessaire pour éviter que naisse une crainte raisonnable de partialité. Nous sommes également d'accord avec la Cour d'appel de la Colombie-Britannique pour dire que, en l'espèce, particulièrement dans un contexte d'autoréglementation, la situation est très différente de celle qui existait dans l'arrêt *Canadien Pacifique Ltée c. Bande indienne de Matsqui*, [1995] 1 R.C.S. 3.

Consequently, for these reasons and substantially for the reasons of the B.C.C.A., we would dismiss the appeal with costs.

Par conséquent, pour ces motifs et substantiellement pour ceux de la Cour d'appel de la Colombie-Britannique, nous sommes d'avis de rejeter le pourvoi avec dépens.

4.10.1996

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

Anne-Marie Parisé

Anne Dugas-Horsman, for the appellant.

v. (24824)

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

Luc J. Labonté, for the respondent.

THE CHIEF JUSTICE: (orally for the Court) -- We need not hear from you Ms. Dugas-Horsman. We are ready to hand down judgment immediately. Judgment of the Court will be delivered by my brother, Mr. Justice Sopinka.

LE JUGE EN CHEF (oralement pour la Cour) -- Nous n'avons pas besoin de vous entendre Madame Dugas-Horsman. Nous sommes prêts à rendre jugement immédiatement. Le jugement de la Cour sera prononcé par mon collègue le juge Sopinka.

SOPINKA J. -- In light of the findings of fact of the trial judge which we accept, there was no evidence in this case upon which a court properly instructed could reasonably find that the appellant's conduct had created a risk of deprivation of an amount in excess of \$1000.00.

LE JUGE SOPINKA -- À la lumière des conclusions de fait du juge du procès, conclusions que nous acceptons, il n'y avait en l'espèce aucune preuve sur le fondement de laquelle un tribunal s'étant formulé les directives appropriées aurait pu raisonnablement conclure que la conduite de l'appelante avait créé un risque de privation d'une somme supérieure à 1 000 \$.

We are satisfied that the trial judge accepted the evidence of the appellant that she honestly believed that her circumstances had not changed so as to affect her entitlement to income assistance. In view of this finding, an essential element of the *mens rea* for the offence was negated.

Nous sommes convaincus que le juge du procès a accepté le témoignage de l'appelante dans lequel elle disait croire sincèrement que sa situation n'avait pas changé d'une manière qui aurait influé sur son droit à l'aide au revenu. Cette conclusion a eu pour effet d'écartier un élément essentiel de la *mens rea* requise à l'égard de l'infraction.

Accordingly, the trial judge did not err in law in acquitting the appellant, and the Court of Appeal was wrong to interfere.

En conséquence, le juge du procès n'a pas commis d'erreur de droit en acquittant l'appelante, et la Cour d'appel a fait erreur en intervenant.

The appeal is allowed, the judgment of the Court of Appeal is set aside and the acquittal is restored.

Le pourvoi est accueilli, l'arrêt de la Cour d'appel est infirmé et l'acquittement est rétabli.

4.10.1996

CORAM: Gonthier, Cory, McLachlin, Iacobucci and Major JJ.

Edward Michael Pittman

Jerome P. Kennedy, for the appellant.

v. (25074)

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

Colin J. Flynn, Q.C., for the respondent.

GONTHIER J. (orally for the Court) -- This appeal comes to us as of right. We are all of the view that the trial judge's instructions as to the defence of intoxication taken as a whole, including the second and the last recharge, were not in error nor misleading, though it was unnecessary to cover intoxication in general intent offences. We agree with the majority of the Court of Appeal in dismissing the issues raised as to unanimity and the judge's remarks said to be inflammatory, and agree with its comments on the latter. Accordingly, the appeal is dismissed.

LE JUGE GONTHIER (oralement au nom de la Cour) -- Le présent pourvoi est formé de plein droit. Nous sommes tous d'avis que, dans l'ensemble, les directives du juge du procès relativement au moyen de défense fondé sur l'intoxication, y compris celles données dans ses deuxième et dernier exposés supplémentaires, n'étaient ni erronées ni de nature à induire en erreur, quoiqu'il ne fût pas nécessaire de traiter de l'intoxication dans le cas d'infractions requérant une intention générale. Nous sommes d'accord avec la Cour d'appel à la majorité pour rejeter les moyens invoqués touchant les directives sur l'unanimité et les remarques soi-disant incendiaires du juge, et nous souscrivons aux commentaires qu'elle a faits à ce dernier sujet. Le pourvoi est donc rejeté.

8.10.1996

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

The Brant County Board of Education et al.

Christopher G. Riggs, Q.C., Andrea F. Raso and Brenda J. Bowlby, for the appellant the Brant County Board of Education.

v. (24668)

Carol Eaton et al. (Ont.)

Dennis W. Brown, Robert E. Charney and John Zarudny, for the appellant the A.G. for Ontario.

Isabelle Harnois, pour l'intervenant le Procureur général du Québec.

No one appearing, for the intervener the A.G. of B.C.

Brenday J. Bowlby, for the intervener the Ontario Public School Boards' Association.

Stephen Goudge, Q.C. and Janet L. Budgell, for the respondents.

David W. Kent, Melanie A. Yach and Geri Sanson, for the interveners the Council of Canadians with Disabilities et al.

Philippe Robert de Massy, pour l'intervenante la Commission des droits de la personne et des droits de la jeunesse.

W.I.C. Binnie, Q.C. and Robert Fenton, for the
intervener the Down Syndrome Association of
Ontario.

Mary Eberts and Lucy K. McSweeney, for the
intervener the Easter Seal Society of Canada.

Cheryl Milne, for the interveners the Canadian
Foundation for Children, et al.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Canadian Charter of Rights and Freedoms - Equality rights - Schools - Administrative law - Judicial Review - Statutes - Interpretation - Whether the Court of Appeal erred in proceeding, *proprio motu*, to review the constitutional validity of the *Education Act*, R.S.O., c. E-22 - Whether the Court of Appeal erred in finding that the *Education Act* gives school boards a discretion to violate the *Charter* - If the Court of Appeal properly reviewed the constitutional validity of the *Education Act*, do s. 8(3) of the *Education Act*, R.S.O. 1990, E.2, as amended, and s. 6 of *Regulation 305* of the *Education Act*, infringe Emily Eaton's equality rights under s. 15(1) of the *Canadian Charter of Rights and Freedoms* - Are s. 8(3) of the *Education Act*, and s. 6 of *Regulation 305* of the *Education Act* justified as a reasonable limit under s. 1 of the *Canadian Charter of Rights and Freedoms* - Whether the Court of Appeal erred in finding that parents have the right to choose whether their children's equality rights will be overridden - Whether the Court of Appeal err in remitting the matter back to a differently constituted Tribunal.

Nature de la cause:

Charte canadienne des droits et libertés - Droits à l'égalité - Écoles - Droit administratif - Contrôle judiciaire - Lois - Interprétation - La Cour d'appel a-t-elle commis une erreur en procédant *proprio motu* à l'examen de la validité constitutionnelle de la *Loi sur l'éducation*, L.R.O., ch. E-22? - La Cour d'appel a-t-elle commis une erreur en concluant que la *Loi sur l'éducation* confère aux conseils scolaires un pouvoir discrétionnaire de contrevenir à la *Charte*? - Si la Cour d'appel a eu raison d'examiner la validité constitutionnelle de la *Loi sur l'éducation*, le par. 8(3) de la *Loi sur l'éducation*, L.R.O. 1990, ch. E-22, et modifications, et l'art. 6 du *Règlement 305* de la *Loi sur l'éducation* contreviennent-ils aux droits à l'égalité garantis à Emily Eaton en vertu du par. 15(1) de la *Charte canadienne des droits et libertés*? - Le paragraphe 8(3) de la *Loi sur l'éducation* et l'art. 6 du *Règlement 305* de la *Loi sur l'éducation* peuvent-ils se justifier en tant que limite raisonnable en vertu de l'article premier de la *Charte canadienne des droits et libertés*? - La Cour d'appel a-t-elle commis une erreur en concluant que les parents ont le droit de choisir s'il sera dérogé aux droits à l'égalité de leurs enfants? - La Cour d'appel a-t-elle commis une erreur en renvoyant l'affaire à un tribunal de formation différente?

9.10.1996

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

Dell Holdings Ltd.

v. (24695)

Toronto Area Transit Operating Authority (Ont.)

Bryan Finlay, Q.C., Lynda C.E. Tanaka and J.
Gregory Richards, for the appellant.

John D. Brownlie, Q.C. and Susan J. Heakes, for the
respondent.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Crown - Expropriation - Interpretation - Property law - Real property - Restitution - Remedies - Availability of damages for financial loss caused by delay in expropriating lands - Whether the Court of Appeal erred in holding that Dell's losses were not compensable as disturbance damages or injurious

affection under the *Expropriation Act*? - Whether the Court failed to give effect to the legislative intent of the compensation provisions of the *Act* by failing to interpret the *Act* in favour of indemnifying the owner for all losses caused by the expropriation - Alternatively, whether the Court of Appeal erred in applying the standard of correctness in its review of

the decision and order of the Ontario Municipal Board.

Nature de la cause:

Couronne - Expropriation - Interprétation - Droit des biens - Biens immobiliers - Restitution - Redressements - Possibilité d'obtenir des dommages-intérêts au titre d'une perte financière causée par un délai dans l'expropriation de terres - La Cour d'appel a-t-elle commis une erreur en statuant que les pertes de Dell n'étaient pas indemnisables à titre de dommages-intérêts pour troubles de jouissance ou pour effet préjudiciable en vertu de la *Loi sur l'expropriation*? - La Cour d'appel a-t-elle omis de donner effet à l'esprit des dispositions relatives à l'indemnisation prévues dans la *Loi* du fait qu'elle n'a pas interprété la *Loi* de façon à indemniser le propriétaire de toutes les pertes causées par l'expropriation? - Subsidiairement, la Cour d'appel a-t-elle commis une erreur en appliquant la norme de la décision correcte dans son contrôle de la décision et de l'ordonnance de la Commission des affaires municipales de l'Ontario?

10.10.1996

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

Clayton Otis Jacquard

v. (24660)

Joel E. Pink, Q.C. and Danny Graham, for the appellant.

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

William D. Delaney, for the respondent.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Criminal law - Defence - Offences - Trial by jury - Insanity - Requisite intent required for murder and for planning and deliberation - Appellant 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 with respect to the issue of the Appellant's capacity to plan and deliberate in relation to the shooting of Hurlburt - 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 Appellant wiped his fingerprints from the shotgun and the further inference that could be drawn from such conduct, namely that of consciousness of guilt?

Nature de la cause:

Droit criminel - Défense - Infractions - Procès devant jury - Aliénation mentale - Intention requise pour fins de meurtre et pour planification et préméditation - L'appellant a été déclaré coupable de meurtre au premier degré et de tentative de meurtre - La Cour d'appel de la Nouvelle-Écosse a-t-elle commis une erreur en statuant que le juge du procès avait donné au jury des directives appropriées sur les éléments essentiels des diverses questions et des éléments de preuve substantiels accessoires à ces questions, tout particulièrement relativement à la question de la capacité de l'appellant de planifier et de préméditer le meurtre de Hurlburt? - La Cour d'appel a-t-elle commis une erreur en confirmant les directives que le juge du procès avait données au jury selon lesquelles la preuve permettait de déduire que l'appellant avait essuyé ses empreintes sur le fusil et, également, de déduire de cette conduite qu'il avait l'esprit coupable?

**PRONOUNCEMENTS OF APPEALS
RESERVED**

**JUGEMENTS RENDUS SUR LES
APPELS EN DÉLIBÉRÉ**

Reasons for judgment are available

Les motifs de jugement sont disponibles

OCTOBER 9, 1996 / LE 9 OCTOBRE 1996

24668 **THE BRANT COUNTY BOARD OF EDUCATION v. CAROL EATON AND CLAYTON EATON and ATTORNEY GENERAL FOR ONTARIO, ATTORNEY GENERAL OF QUEBEC, ATTORNEY GENERAL OF BRITISH COLUMBIA, ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION, COUNCIL OF CANADIANS WITH DISABILITIES, ET AL, COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, THE DOWN SYNDROME ASSOCIATION OF ONTARIO, THE EASTER SEAL SOCIETY OF CANADA AND CANADIAN FOUNDATION FOR CHILDREN, ET AL** (Ont.)

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

The appeal is allowed with costs. The judgment of the Court of Appeal is set aside and the judgment of the Divisional Court is restored, reasons to follow.

Le pourvoi est accueilli avec dépens. L'arrêt de la Cour d'appel est infirmé et le jugement de la Cour divisionnaire est rétabli. Les motifs suivront.

WEEKLY AGENDA

**ORDRE DU JOUR DE LA
SEMAINE**

AGENDA for the week beginning October 15, 1996.
ORDRE DU JOUR pour la semaine commençant le 15 octobre 1996.

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.

**NOTICES TO THE PROFESSION
AND PRESS RELEASE**

**AVIS AUX AVOCATS ET
COMMUNIQUÉ DE PRESSE**

Counsel are hereby notified of Rule 51.1, a new rule added to the *Rules of the Supreme Court of Canada*, registered as SOR/96-393 and published in Part II of the Canada Gazette on August 7, 1996.

Where a judge is satisfied that a party is conducting a proceeding in a vexatious manner, Rule 51.1 allows the judge to order a stay of proceedings on appropriate terms.

Similarly, where an application for leave to appeal has been dismissed, a judge may order that no further proceedings be filed relating to that leave application, where the judge is satisfied that the further proceedings would be vexatious or are brought for an improper purpose.

An application for an order under Rule 51.1 may be made by any party or by the Registrar.

Any inquiries about this rule should be addressed to Louise Meagher, Deputy Registrar, at (613) 996-7520.

Les avocats sont avisés du nouvel article 51.1 des *Règles de la Cour suprême du Canada*, porté sous le DORS/96-393 et publié le 7 août 1996 dans la Gazette du Canada, partie II.

L'article 51.1 permet au juge, s'il est convaincu qu'une partie agit de manière vexatoire, d'ordonner la suspension de l'instance aux conditions qu'il estime appropriées.

De même, un juge peut ordonner qu'aucune autre procédure ne soit déposée relativement à une demande d'autorisation d'appel rejetée, s'il est convaincu que cette autre procédure serait vexatoire ou introduite dans un but illégitime.

L'article 51.1 stipule que l'ordonnance peut être demandée par toute partie ou par le registraire.

Toutes questions concernant le présent avis doivent être adressées à Louise Meagher, registraire adjoint, au (613) 996-7520.

Anne Roland

Registrar - Registraire

September, 1996

Septembre 1996

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April 1987

Procedure upon completion of oral argument.

Avril 1987

Procédure à suivre lorsque la plaidoirie est terminée.

May 1989

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June 1990	Filing of factums in reply.	Juin 1990	Production des mémoires en réponse.
Jan. 1991	Counsel information and attendance by counsel at the Process Registry prior to the hearing of a motion or an appeal.	Janv. 1991	Information concernant les procureurs et la présence des avocats au greffe avant l'audition d'une requête ou d'un pourvoi.
April 1991	Timely prosecution of appeals.	Avril 1991	Poursuite des appels dans les délais prescrits.
October 1991	Court's video-conferencing service.	Octobre 1991	Service de vidéo-conférence de la Cour.
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Dec. 1993	Compliance with Rule 23 respecting applications for leave.	Déc. 1993	Demandes d'autorisation d'appel et application de l'article 29 des <i>Règles de la Cour suprême du Canada</i> .
Nov. 1994	Books of authorities.	Nov. 1994	Recueils de jurisprudence et de doctrine.
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Nov. 1994	Filing reasons for judgment with notice of appeal as of right.	Nov. 1994	Dépôt des motifs de la juridiction inférieure avec l'avis d'appel de plein droit.
Jan. 1995	Time limits on leave applications.	Jan. 1995	Délais concernant les demandes d'autorisation.
Feb. 1995	Remand power; stay; entry of cases; section 677 of the <i>Criminal Code</i> .	Fév. 1995	Pouvoir de renvoi; sursis; ordre des appels; l'article 677 du <i>Code criminel</i> .

April 1995	New tariffs.	Avril 1995	Nouveaux tarifs.
Aug. 1995	Filing deadlines; abandoned appeals.	Août 1995	Délai de dépôt; appels abandonnés.
Aug. 1995	Hours of hearings; time allowed for argument.	Août 1995	Heures des audiences; durée des plaidories.
Jan. 1996	Motions.	Jan. 1996	Requêtes.
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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 4, 1996

Service : October 28, 1996
Filing : October 21, 1996
Respondent : October 14, 1996

Motion day : December 2, 1996

Service : November 25, 1996
Filing : November 18, 1996
Respondent : November 11, 1996

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 : 4 novembre 1996

Signification : 28 octobre 1996
Dépôt : 21 octobre 1996
Intimé : 14 octobre 1996

Audience du : 2 décembre 1996

Signification : 25 novembre 1996
Dépôt : 18 novembre 1996
Intimé : 11 novembre 1996

The winter session of the Supreme Court of Canada will commence September 30, 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.

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.

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

La session d'hiver de la Cour suprême du Canada commencera le 30 septembre 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'appelant doit être déposé dans les quatre 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 quatre 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.

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 1996 -

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6	7	8	9	10	11	12
13	H 14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

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

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APRIL - AVRIL						
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MAY - MAI						
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83 sitting days / journées séances de la cour
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1 holidays during sitting days / jours fériés durant les sessions