SUPREME COURT OF CANADA

COUR SUPRÊME DU CANADA

BULLETIN OF PROCEEDINGS

BULLETIN DES PROCÉDURES

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Fred Thompson
Terence C. Semenuk
Singleton Urquhart Scott

v. (27024)

Her Majesty the Queen (Alta.)
Josh B. Hawkes
Alberta Justice

DATE DE PRODUCTION 10.2.1999

Sangani Osuitok
Alison J. Wheeler
Greenspan, Henein and White

v. (27102)

Her Majesty the Queen (N.W.T.)
Robert Frater
Dept. of Justice

DATE DE PRODUCTION 22.1.1999

Daniel Dulude
Claude Robitaille
Brodeur, Robitaille & Gendron

c. (27105)

Sa Majesté la Reine (Qué.)
Henri-Pierre Labrie
Subs. du procureur général

DATE DE PRODUCTION 26.1.1999

MARCH 1, 1999 / LE 1 MARS 1999

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

Stojan Stonojlovic

v. (26876)

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

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Extradition - To what extent is the *Charter* available to protect Canadian citizens against *Charter* violations committed by Canadian authorities in extradition proceedings - During extradition proceedings are Canadian authorities required to obey the terms of the *Mutual Legal Assistance in Criminal Matters Treaty* with the United States - Is there a positive duty upon the Crown, when acting as agent for a foreign state to respect the fair trial rights of Canadian citizens in that foreign state - Whether the *Identification of Criminals Act* applied to these proceedings.

PROCEDURAL HISTORY

December 13, 1996 Court of Queen's Bench of Alberta (Sanderman J.)	Applicant committed for extradition
August 19, 1998 Court of Appeal of Alberta (McClung, Picard and Berger [dissenting in part] JJ.A.)	Appeal dismissed
November 20, 1998 Supreme Court of Canada	Application for leave to appeal and motion for the extension of time filed

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Errol McHayle

v. (27035)

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

NATURE OF THE CASE

Criminal law - Did lower courts err in convicting, and upholding conviction, of Applicant for impaired driving and failure to provide breath sample?

PROCEDURAL HISTORY

July 21, 1997 Ontario Court of Justice (Provincial Division) (Rice P.C.J.)	Convictions: impaired driving and failure to provide a breath sample
June 5, 1998 Ontario Court of Justice (General Division)	Summary Conviction appeal dismissed

(Hawkins J.)

July 21, 1998
Court of Appeal for Ontario (Rosenberg J.A.)

Leave to appeal granted

October 27, 1998
Court of Appeal for Ontario
(Krever, Labrosse, and Weiler JJ.A.)

Appeal dismissed

December 18, 1998
Supreme Court of Canada

Application for leave to appeal filed

George Ardley

v. (26964)

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

NATURE OF THE CASE

Criminal law - Regulatory offences - Statutes - Statutory interpretation - Whether the Court of Appeal erred in its interpretation of s. 61(1)(c) (definition of persons required to provide information) of the *Fisheries Act*, R.S.C., 1985, c. F-14.

PROCEDURAL HISTORY

November 22, 1996
Provincial Court of British Columbia (Gould J.)

Conviction: failing to provide records of all fishing activity as required by 61(2) of the *Fisheries Act*

July 15, 1997
Supreme Court of British Columbia (Hardinge J.)

Summary conviction appeal allowed: conviction set aside and verdict of acquittal entered

September 21, 1998
Court of Appeal for British Columbia
(McEachern C.J.B.C., Southin and Hall JJ.A.)

Appeal allowed and conviction restored

November 20, 1998
Supreme Court of Canada

Application for leave to appeal filed

John Gordon Ferguson

v. (26998)

Her Majesty the Queen in Right of the province of British Columbia (B.C.)

NATURE OF THE CASE

Procedural law - Appeal - Courts - Standard of review - Findings of fact - Whether Court of Appeal unjustifiably interfered in trial judge's findings of fact.

PROCEDURAL HISTORY

November 6, 1996 Supreme Court of British Columbia (Henderson J.)	Action granted. Liability of the defendants apportioned 80% to the Applicant and 20% to the Respondent
October 1, 1998 Court of appeal for British Columbia (Southin, Newbury and Braidwood JJ.A.)	Respondent's appeal allowed
November 30, 1998 Supreme Court of Canada	Application for leave to appeal filed

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CORAM: L'Heureux-Dubé, Gonthier and Bastarache JJ. /
Les juges L'Heureux-Dubé, Gonthier et Bastarache

Gemex Developments Corp.

v. (27019)

Assessor of Area #12 - Coquitlam (B.C.)

NATURE OF THE CASE

Taxation - Assessment - Real property - *Assessment Act*, R.S.B.C. 1979, c. 21, s. 26(2) - Determination of "actual value" - Whether Assessment Appeal Board erred in assessing the value of a property on the basis of its "highest and best use" rather than its intended use - Whether Board erred in adopting an approach that considered sales "subject to" conditions - Whether Board misapprehended evidence.

PROCEDURAL HISTORY

June 28, 1996 Supreme Court of British Columbia (Stewart J.)	Appeal by Applicant from the decision of the Assessment Appeal Board dismissed
September 30, 1998 Court of Appeal of British Columbia (Goldie, Prowse and Newbury JJ.A.)	Appeal dismissed
November 23, 1998 Supreme Court of Canada	Application for leave to appeal filed

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Nelson Wayne Henderson

v. (27101)

Doris Henderson (Alta.)

NATURE OF THE CASE

Canadian Charter - Civil - Family Law - Access - Best interests of the child - Order denied a father access to his children for a one year period - Access to be restored after he and his children completed a home study by a psychiatrist or psychologist to determine if access should be restored - Home study would occur only if the psychiatrist or psychologist determined that the children wished a restoration of access - Father was a member of the Church of Scientology which prohibited submitting to a psychiatrist or psychologist - Whether the judicial order was in the best interests of the children - Whether the order was a delegation of judicial authority - Whether the Court could compel an investigation that violated the father's religious beliefs - Whether the order constituted a total bar to access.

PROCEDURAL HISTORY

June 19, 1997 Court of Queen's Bench of Alberta (MacCallum J.)	Application to hold Respondent in contempt of Court dismissed; Applicant denied access to children for one year
November 27, 1998 Court of Appeal of Alberta (Côté, Picard and Hunt JJ.A.)	Appeal dismissed
January 26 1999 Supreme Court of Canada	Application for leave to appeal filed

The Begetikong Anishnabe (also known as the "Ojibways of Pic River")

v. (27002)

The Minister of Indian Affairs and Northern Development, Ron Irwin (F.C.A.)(Ont.)

NATURE OF THE CASE

Procedural Law - Civil Procedure - Solicitor-client privilege - Whether legal opinions prepared by lawyers of the Department of Justice for the Minister of Indian Affairs and Northern Development with respect to comprehensive lands claims are solicitor-client privileged - Whether the Crown's fiduciary duty affects claims to privilege for legal opinions commissioned by the Minister of Indian Affairs and Northern Development - Whether a partial disclosure occurred such that a claim to solicitor-client privilege was waived.

PROCEDURAL HISTORY

October 27, 1997 Federal Court of Canada, Trial Division (Dubé J.)	Motion for release of legal opinion dismissed
September 22, 1998 Federal Court of Appeal (Décary, McDonald and Sexton JJ.A.)	Appeal dismissed
November 23, 1998 Supreme Court of Canada	Application for leave to appeal filed

Clearview Dairy Farm (1989) Inc., Cornelia Clazina Maria DeGroot, also known as Corine DeGroot, Cornelia Theresa Johanna DeGroot, also known as Nell DeGroot, Lydia DeGroot and Peter DeGroot doing business as "Grovo Holsteins" and the said Cornelia Theresa Johanna DeGroot, Peter DeGroot, Gerardus Anthonius Maria DeGroot, also known as Ton DeGroot, Andre DeJong, Bertus DeVries, Camille DeVries, Peter DeVries, Bertus DeVries, Camille DeVries, Peter DeVries doing business as "P&C Farms", Michael Karl Bob DeVries, Allison Jean Dutra doing business as "J.R. Dairy" and as "J & R Dairy" and the said Allison Jean Dutra, Marcel Eeltink, Theodore Faber, 486448 B.C. Ltd., Highfields Farm Inc., Frank Martin Neels doing business "Lanndo Island Dairy" and the said Frank Martin Neels, Nortil Holsteins Ltd., Grant Gerald Tocher, Judy Lynn Tocher, Ralph Charles Vantil

v. (26975)

British Columbia Milk Marketing Board and Canadian Dairy Commission (B.C.)

NATURE OF THE CASE

Constitutional law - Statutes - Statutory instruments - Interpretation - Subdelegation of federal powers to provincial board - Whether there was authority for subdelegation - If not, whether the Governor in Council can subdelegate the power to establish provincial allocations of the Canadian market for a particular product and to determine all the principles, rules and formulae upon which such allocations are made to an entirely independent board without Parliamentary authority - If not, whether the Governor in Council can subdelegate the power to allot quota to individual producers within the province and to promulgate rules of entitlement to govern the exercise of that power to a provincial board without Parliamentary authority.

PROCEDURAL HISTORY

April 8, 1997 Supreme Court of British Columbia (Wong J.)	Application for declaration that *Dairy Products Marketing Regulations*, SOR/94-466 are *ultra vires* dismissed
September 8, 1998 Court of Appeal for British Columbia (Esson, Braidwood, Proudfoot JJ.A.)	Appeal allowed in part
November 9, 1998 Supreme Court of Canada	Application for leave to appeal filed

CORAM: Cory, Major and Binnie JJ. /
Les juges Cory, Major et Binnie

George Hines

v. (26506)

Ontario Human Rights Commission and City of Toronto (Ont.)

NATURE OF THE CASE

Canadian *Charter* - Civil - Civil Rights - *Human Rights Code*, R.S.O. 1990, c. H.19 s. 34(1)(a) and (b) - Statutes - Interpretation - Labour law - Labour relations - Whether the Court of Appeal erred in denying leave to appeal.

PROCEDURAL HISTORY

June 3, 1997 Ontario Court (Divisional Court) (Boland, Bell and Corbett JJ.)	Application for judicial review dismissed
February 24, 1998 Court of Appeal for Ontario (McKinlay and Austin JJ.A., Dunnet J. [ad hoc])	Motion for leave to appeal dismissed
April 2, 1998 Supreme Court of Canada (Gonthier J.)	Decision on motion to extend time to file and serve application for leave to November 1, 1998 deferred to panel seized with leave application
October 30, 1998 Supreme Court of Canada	Application for leave to appeal filed
December 14, 1998 Supreme Court of Canada (Binnie J.)	Motion to add City of Toronto as new party granted

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Gilbert L. Gaudet

v. (26921)

Wayne Barrett and Marlene Barrett (N.S.)

NATURE OF THE CASE

Barristers and solicitors - Duties - Fiduciary duties - Breach of fiduciary duties - Conflict of interest - Non-disclosure - Property law - Real Property - Remedies - Residential real estate transaction - Action commenced against solicitor and other defendants - Assessment of damages - Joint and several liability - Whether there must be a causal connection between a breach of fiduciary duty and the damages recovered by a party - When a fiduciary breaches his duty can he be held jointly and severally liable for damages resulting from the breach of a separate contract.

PROCEDURAL HISTORY

July 4, 1997 Provincial Court of Nova Scotia (Anderson J.)	Respondents' action allowed; crossclaims dismissed; CIBC's counterclaim allowed
August 28, 1998 Supreme Court of Nova Scotia, Appeal Division (Cromwell, Jones, and Pugsley JJ.A.)	Applicant's appeal allowed in part; Respondents' cross-appeal allowed; Respondents' appeal allowed in part: action for negligent misrepresentation against CIBC allowed
October 30, 1998 Supreme Court of Canada	Application for leave to appeal filed
December 4, 1998 Supreme Court of Canada (Binnie J.)	Applicant's motion for an extension of time granted

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John Folkes

v. (26974)

Greensleeves Publishing Limited, Signet Records Inc., Virgin Records (Canada) Inc., Northridge Music Company, Global Music Ltd, Estate of Henry Mancini, Orville Burrell, Cecil Campbell (also known as Prince Buster) (Ont.)

NATURE OF THE CASE

International Law - Conflict of Laws - Forum Conveniens - Property Law - Copyright - Music - Application of test of forum conveniens to a copyright action commenced in Ontario - United Kingdom held to be the forum conveniens - Appropriateness of the test and results - Whether decision requires an English Court to try a Canadian infringement action or to re-try issues already decided - Whether the Court of Appeal misapprehended evidence and arguments.

PROCEDURAL HISTORY

March 25, 1997 Ontario Court (General Division) (Somers J.)	Action stayed
September 10, 1998 Court of Appeal for Ontario (McKinlay, Carthy and Rosenberg JJ.A.)	Appeal dismissed
November 12, 1998 Supreme Court of Canada	Application for leave to appeal filed

Friedmann Equity Developments Inc.

v. (26971)

Final Note Limited, Final Note Limited, Trustee, Ramzin Adatia, Roshan Aditia, Zubeda Manhi, in trust, Mohamed Virani, in trust, Alaudin Jamal, Can-Am Hotel Group, Navroz Hoteliers, Navroz Hoteliers Inc., 336676 Alberta Ltd., in trust, Ceder Glen Heights Realty Corporation, J.A.J. Financial Corporation, Sadra Sidi, Yasmin Sidi, Abdul Thawer, Farida Thawer, Dr. Almas Adatia, also known as Almas Adatia, Zul Vergee, in trust, Mohamed Rajani, Shorim Investments, in trust, Shorim Investments Limited, in trust, Peter Bortoluzzi, Mohamed Majni, in trust, Abdulaziz Virani, Zul Rapani, Sultan Lalani, in trust, Hussein Amlani, in trust, Tan-Can Investments Ltd., R.J.N. Investments Limited, 808549 Ontario Inc., 808413 Ontario Inc., Navin Katyal, Rajan Katyal, Viordrai G. Sodha, Nizar Ratansi, Sureia Ratansi, D. Mawji, in trust, and Forwarders Ltd., previously known as 808548 Ontario Inc.,

- and -

Lionel C. Larry and Robins, Appleby & Taub (Ont.)

NATURE OF THE CASE

Contracts - Trustees - Sealed contract rule - Whether undisclosed principals should be exempt from liability for obligations arising in a mortgage executed by their agent or bare trustee under corporate seal pursuant to the sealed contract rule - Whether an undisclosed principal can be sued by a third party on an indenture executed by an agent under corporate seal - Whether the sealed contract rule should continue to exist.

PROCEDURAL HISTORY

March 29, 1996 Ontario Court (General Division) (Borins J.)	Motion for dismissal of action dismissed
February 18, 1997 Ontario Court, Divisional Court (Sanders, Keenan, and Sharpe JJ.A.)	Appeal allowed, action dismissed
September 9, 1998 Court of Appeal for Ontario (Morden, Rosenberg, and Goudge JJ.A.)	Appeal dismissed
November 9, 1998 Supreme Court of Canada	Application for leave to appeal filed

MARCH 4, 1999 / LE 4 MARS 1999

26860 **HER MAJESTY THE QUEEN - v. - TREVOR MIDDLETON AND SUSAN COUTTS** (Crim.)(Ont.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

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

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

NATURE OF THE CASE

Criminal law - Consciousness of guilt - Whether the Court of Appeal erred in holding that the trial judge should not have charged the jury on inferences that could be drawn from post-offence statements by the Respondents to the police in the absence of independent evidence of fabrication - Whether the Court of Appeal erred in finding that there was no independent evidence of fabrication.

PROCEDURAL HISTORY

September 18, 1996 Ontario Court (General Division) (Herold J.)	Conviction: arson
June 17, 1998 Court of Appeal for Ontario (Brooke, Doherty, and Charron JJ.A.)	Appeal allowed; new trial ordered for Respondent Middleton; Respondent Coutts acquitted
September 16, 1998 Supreme Court of Canada	Application for leave to appeal filed

26758 **BOT CONSTRUCTION LIMITED - v. - HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO, REPRESENTED BY THE MINISTER OF TRANSPORTATION FOR THE PROVINCE OF ONTARIO AND BOB BREEZE** (Ont.)

CORAM: The Chief Justice and McLachlin 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

Administrative law - Judicial Review - Procedural fairness - Contracts - Section 23 of the Qualification Procedure for Contractors providing for review and appeal - Whether the Applicant is entitled to procedural fairness, and if so, the extent of that procedural fairness - Whether the Court of Appeal erred in dismissing the Applicant's motion for leave to appeal.

PROCEDURAL HISTORY

March 13, 1998 Ontario Court (Divisional Court) (Maloney, Bell, and Swinton JJ.)	Applicant's application for judicial review dismissed
May 12, 1998 Ontario Court of Appeal (Krever, Labrosse, and Rosenberg J.A.)	Applicant's motion for leave to appeal dismissed with costs
August 10, 1998 Supreme Court of Canada	Application for leave to appeal filed

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26911 **ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION, DISTRICT 9 - v. - PETER G. BARTON, JAMES N. BARTLET, LINVEL JONES AND GREATER ESSEX COUNTY DISTRICT SCHOOL BOARD** (Ont.)

CORAM: The Chief Justice and McLachlin 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

Procedural Law - Civil Procedure - Evidence - Administrative Law - Judicial Review - Natural justice - Disposing of an appeal on an issue not raised by the litigants - Whether Court of Appeal erred in denying a remand to an arbitration board to conduct a hearing to determine a litigant's period of disability in order to determine damages - Whether evidence should have been led in the first hearing.

PROCEDURAL HISTORY

June 4, 1996 Ontario Court, Divisional Court (O'Leary, Borins and Adams JJ.)	Dismissal of grievance quashed, remand to board of arbitration
August 24, 1998 Court of Appeal for Ontario (Robins, McKinlay and Osborne JJ.A.)	Appeal allowed
October 19, 1998 Supreme Court of Canada	Application for leave to appeal filed

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26983 **CENTURY SERVICES INC., FORMERLY KNOWN AS CENTURY DISPOSALS INC. - v.- ZI CORPORATION, FORMERLY KNOWN AS MULTI-CORP INC.** (Alta.)

CORAM: The Chief Justice and McLachlin 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

Commercial law - Contract - Appeals - Whether Court of Appeal erred in disposing of appeal on ground not raised at trial - Whether Court of Appeal erred by failing to apply Supreme Court of Canada decisions in *McCauley v. McVey* and *Dynamic Drilling v. O.K. Detailing* to a contract subject to the condition of subsequent board approval.

PROCEDURAL HISTORY

December 19, 1997 Court of Queen's Bench (Hawco J.)	Applicant's action allowed
October 13, 1998 Court of Appeal of Alberta (Côté, O'Leary and Sulatycky JJ.A.)	Appeal allowed
November 19, 1998 Supreme Court of Canada	Application for leave to appeal filed

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26991 **JORDAN WARD - v. - GOVERNMENT OF SASKATCHEWAN** (Sask.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

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

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

NATURE OF THE CASE

Labour law - Labour relations - Arbitration - Unionized workplace - Individual employees seeking to enforce arbitrators' award - Whether Court of Appeal erred in dismissing appeal - Whether a judge on the Court of Appeal was biased by having been a Minister of the Respondent Government in the relevant time period.

PROCEDURAL HISTORY

April 9, 1998 Court of Queen's Bench of Saskatchewan (Maurice J.)	Application for judicial review, writ of mandamus and judicial supervision dismissed
September 25, 1998 Court of Appeal for Saskatchewan (Wakeling, Tallis, and Lane JJ.A.)	Appeal dismissed

December 11, 1998
Supreme Court of Canada

Application for leave to appeal filed

26815 **9004-6673 QUÉBEC INC. c. ROXBORO EXCAVATION INC. ET GESTION BOLAIN INC., RICHTER ET ASSOCIÉS INC. ET MARCHÉ CENTRAL MÉTROPOLITAIN INC.** (Qué.)

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

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

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Procédure - Procédure civile - Tribunaux - Récusation - Garantie d'impartialité judiciaire - Art. 234 du *Code de procédure civile*, L.R.Q., ch. C-25 - Certaines des déclarations du juge Guibault dans son jugement du 5 novembre 1997 suscitent-elles une crainte raisonnable de partialité à l'endroit du juge Guibault en ce qui concerne le litige faisant l'objet de la déclaration d'intervention amendée? - Les prétendus avantages administratifs qu'il peut y avoir à saisir un même juge de plusieurs dossiers connexes constituent-ils une considération pertinente pour déterminer s'il doit être récusé?

HISTORIQUE PROCÉDURAL

Le 16 février 1998
Cour supérieure du Québec (Lemieux j.c.s.)

Requête de la demanderesse visant la récusation du juge Guibault rejetée

Le 15 juin 1998
Cour d'appel du Québec
(Michaud j.c.q., Brossard et Rousseau-Houle jj.c.a.)

Appel rejeté

Le 18 août 1998
Cour suprême du Canada

Demande d'autorisation d'appel déposée

26890 **MARSHA BASSI AND SOTERE BASSIS v. CANADIAN IMPERIAL BANK OF COMMERCE, WILLIAM J. WHYTE, JACQUELINE CARLYLE, WANDA BRESSAN AND MAUREEN RUSH** (Ont.)

CORAM: L'Heureux-Dubé, Gonthier and Bastarache 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

Canadian Charter - Civil - Civil rights - Labour law - Torts - Damages - Procedural law - Trial - Whether the Court of Appeal erred in law in finding that the Applicant Bassi was not denied the right to fair trial by inappropriate cross-examination - Whether the Court of Appeal erred in law in failing to find that the trial judge made any reversible error - Whether the Court of Appeal erred in law in failing to find that the trial judge erred in not considering the tort of intentional infliction of mental suffering and emotional distress - Whether the Court of Appeal erred in law in failing to find that the trial judge erred in dismissing the claims against the individual Respondents - Whether the Court of Appeal erred in law in failing to grant the Applicants exemplary or punitive damages - Whether the Respondents' method of terminating the Applicant Bassi's employment violated her right to security of the person contrary to s. 7 of the *Charter*.

PROCEDURAL HISTORY

June 5, 1996 Ontario Court (General Division) (Somers J.)	Judgment for Marsha Bassi against CIBC; judgment for CIBC against Applicants individually and jointly and severally; Applicants' remaining claims against all Respondents dismissed
July 16, 1998 Court of Appeal for Ontario (Austin, Moldaver and Borins JJ.A.)	Appeal dismissed
September 29, 1998 Supreme Court of Canada	Application for leave to appeal filed

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26949 **MR. JUSTICE JOHN E. SHEPPARD v. THE COMMISSIONER FOR FEDERAL JUDICIAL AFFAIRS** (F.C.A.)(Ont.)

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

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Statutes - Interpretation - *Judges Act*, R.S.C., 1985, c. J-1, ss. 34, 38 - Travel allowances for superior court judges - Whether Ontario superior court judges who reside outside their assigned regions are entitled to a daily travel allowance to commute to their judicial chambers - Whether Federal Court of Appeal erred in ruling that they were not so entitled.

PROCEDURAL HISTORY

September 18, 1997 Federal Court of Canada (Trial Division) (Muldoon J.)	Application for judicial review allowed; Respondent's decision refusing to pay Applicant's daily travelling allowances quashed and set aside
September 9, 1998 Federal Court of Appeal (Desjardins, Stone, and Strayer JJ.A.)	Applicant's appeal dismissed; Respondent's cross-appeal allowed
November 6, 1998	Application for leave to appeal filed

Supreme Court of Canada

26958 **MR. JUSTICE THOMAS A. BECKETT v. THE COMMISSIONER FOR FEDERAL JUDICIAL AFFAIRS** (F.C.A.)(Ont.)

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

The motion 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

Statutes - Interpretation - *Judges Act*, R.S.C., 1985, c. J-1, ss. 34, 38 - Travel allowances for superior court judges - Whether Ontario superior court judges who reside outside their assigned regions are entitled to a daily travel allowance to commute to their judicial chambers - Whether Federal Court of Appeal erred in ruling that they were not so entitled.

PROCEDURAL HISTORY

September 18, 1997 Federal Court of Canada , Trial Division (Muldoon J.)	Application for judicial review allowed; Respondent's decision refusing to pay Applicant's daily travelling allowances quashed and set aside
September 9, 1998 Federal Court of Appeal (Stone, Strayer and Desjardins JJ.A.)	Respondent's appeal allowed
November 16, 1998 Supreme Court of Canada	Application for leave to appeal filed

26762 **SASSINE GEORGES SREIH c. SA MAJESTÉ LA REINE** (Crim.)(Qué.)

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

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

NATURE DE LA CAUSE

Droit criminel - Preuve - Infractions - Pratique d'actes indécents dans un endroit public en présence d'une ou de plusieurs personnes - La Cour d'appel a-t-elle erré en accueillant l'appel de l'intimée et en déclarant le demandeur coupable de l'infraction prévue à l'art. 173(1)*a*) du *Code criminel*?

HISTORIQUE PROCÉDURAL

Le 13 février 1995 Cour municipale (Fontaine j.c.m.)	Aquittement: un chef d'accusation d'avoir commis une action indécente dans un endroit public, en présence d'une ou de plusieurs personnes (art.173(1)*a*) C.cr.)
Le 2 juin 1995 Cour supérieure du Québec (Boilard j.c.s.)	Appel de l'intimée rejeté
Le 30 avril 1998 Cour d'appel du Québec (Beauregard, Gendreau et Baudouin jj.c.a.)	Appel de l'intimée accueilli; verdict de culpabilité prononcé
Le 19 juin 1998 Cour suprême du Canada	Demande d'autorisation d'appel déposée

26946 **DALE MARTIN v. THE RURAL MUNICIPALITY OF ST. ANDREWS** (Man.)

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

The motion to strike and the application for leave to appeal are dismissed with costs.

La requête en radiation et la demande d'autorisation d'appel sont rejetées avec dépens.

NATURE OF THE CASE

Torts - Negligence - Municipal law - Highways - Liability - Appeal - Jurisdiction - Evidence - Statutes - Interpretation - Whether the Court of Appeal has the authority to apply its own view of what constitutes negligence - Whether the lower courts were correct in determining that a municipality is not obliged to erect warning signs for sections of roads that fall into temporary or seasonal disrepair - Whether a trial judge may exclude expert evidence that is largely argumentative or biased - Whether the trial judge correctly weighed the expert evidence given their difference credentials and approaches - Whether the reverse onus provision in the *Highway Traffic Act*, s. 153(1) applied.

PROCEDURAL HISTORY

December 9, 1997 Court of Queen's Bench of Manitoba (McCawley J.)	Action against Respondent for breach of the statutory duty to repair and maintain roads dismissed
September 11, 1998 Court of Appeal of Manitoba (Helper, Kroft, and Lyon JJ.A.)	Appeal dismissed
November 9, 1998 Supreme Court of Canada	Application for leave to appeal filed

26865 **DOUGLAS A. WOODWARD - v. - STELCO INC.** (Ont.)

CORAM: Cory, Iacobucci 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 - Contract - Employment - Whether Court of Appeal erred in law in upholding the trial judge's decision that a non-competition covenant contained in a retirement benefits contract was legally enforceable.

PROCEDURAL HISTORY

April 1, 1996 Ontario Court of Justice (General Division) (Stayshyn J.)	Action dismissed
June 24, 1998 Court of Appeal for Ontario (Morden A.C.J.O. and Brooke and Charron JJ.A.)	Appeal dismissed with costs
September 21, 1998 Supreme Court of Canada	Application for leave to appeal filed

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26699 **MARK EDWARD RUSSELL - v. - HER MAJESTY THE QUEEN** (Crim.) (Alta.)

CORAM: Cory, Major and Binnie JJ.

The motion 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 - Defences - Intoxication - Whether the Court of Appeal erred in failing to find that this was an appropriate case to charge the jury on capacity in the defence of intoxication - Whether the Court of Appeal erred in failing to find that the charge to the jury relating to the common sense inference concerning intention is altered in cases of intoxicated persons.

PROCEDURAL HISTORY

September 27, 1996 Court of Queen's Bench of Alberta (Sulatycky J.)	Conviction: second degree murder
May 21, 1998 Court of Appeal of Alberta (Bracco, Hunt and Berger [dissenting] JJ.A.)	Appeal dismissed
June 11, 1998	Notice of appeal as of right filed

Supreme Court of Canada

July 14, 1998
Supreme Court of Canada (Binnie J.)
Respondent's motion to strike out parts of the notice of appeal granted

November 9, 1998
Supreme Court of Canada
Application for leave to appeal and motion for the extension of time filed

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26817 **EBCO INDUSTRIES LTD. - v. - DISCOVERY ENTERPRISES INC.** (B.C.)

CORAM: Cory, Major and Binnie JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Procedural Law - Civil Procedure - Pre-Trial Procedure - Applications for leave to commence a derivative action - Test of good faith - Best interests of the company - Whether demonstration that the proposed derivative action is arguable is sufficient proof that it is *prima facie* in the interests of the company - Whether demonstration of an honest belief in the legal merits of the proposed action constitutes "good faith" on the part of the applicant - Whether the burden to prove "good faith" is a balance of probabilities.

PROCEDURAL HISTORY

July 22, 1997
Supreme Court of British Columbia (Williams C.J.)
Leave to commence a derivative action granted

June 3, 1998
Court of Appeal for British Columbia
(Cumming, Donald and Huddart JJ.A.)
Appeal dismissed

September 1, 1998
Supreme Court of Canada
Application for leave to appeal filed

26913 **DAVID MURRAY-AUDAIN - v. - CORPORATION OF THE TOWN OF NEWCASTLE, LEONARD CREMER, DONALD PATERSON, FRANKLIN WU, and NEWCASTLE SALVAGE** (Ont.)

CORAM: Cory, Major and Binnie JJ.

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

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

NATURE OF THE CASE

Procedural law - Did lower courts err in disposing of case using summary judgment procedure?

PROCEDURAL HISTORY

August 6, 1997 Ontario Court of Justice (General Division) (Grossi J.)	Respondents' motion for summary judgment allowed; Applicant's claim dismissed
March 18, 1998 Court of Appeal for Ontario (Brooke, McKinlay and Abella JJ.A.)	Appeal dismissed
October 14, 1998 Supreme Court of Canada	Application for extension of time and for leave to appeal filed

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26710 **FREDA EVELYN LANGENHAHN and ROBERT LESLIE LANGENHAHN - v. - RICHARD M. CZYZ and RICHARD M. CZYZ PROFESSIONAL CORPORATION** (Alta.)

CORAM: Cory, Major and Binnie JJ.

The application for reconsideration is dismissed with costs.

La demande de réexamen est rejetée avec dépens.

NATURE OF THE CASE

Torts - Actions - Prescription - Whether general rule of discoverability applies to s. 55 of the *Limitation of Actions Act*, R.S.A. 1980 c. L-15 respecting professional negligence and malpractice actions against dentists, physicians, chiropractors, podiatrists and optometrists - Whether incorporating the common law and equitable principle of discoverability into s. 55 of the *Limitation of Actions Act*, R.S.A. 1980 c. L-15 is within the jurisdiction of the Courts.

PROCEDURAL HISTORY

October 2, 1995 Court of Queen's Bench (Breitkreuz, Master)	Applicants' action struck out
January 15, 1996 Court of Queen's Bench (O'Byrne J.)	Appeal allowed: statement of claim reinstated
April 17, 1998 Court of Appeal of Alberta (Bracco J.A. [dissenting in part] and McFadyen and Sulatycky JJ.A.)	Appeal allowed; matter remitted to Court of Queen's Bench for determination of the issue: What is the date when the professional services terminated in respect of the matter that is the subject of this action
June 15, 1998 Supreme Court of Canada	Application for leave to appeal filed

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26929 **HER MAJESTY THE QUEEN - v. - NORMAN GROOT** (Crim.) (Ont.)

CORAM: Cory, Major and Binnie JJ.

The application for leave to cross-appeal is dismissed.

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

NATURE OF THE CASE

Criminal law - Offences - Assault causing bodily harm - Whether the Court of Appeal erred in concluding that the *mens rea* for the offence of assault causing bodily harm includes the objective foreseeability of bodily harm as a consequence of the assaultive conduct.

PROCEDURAL HISTORY

August 22, 1996 Ontario Court (General Division) (Hill J.)	Acquittal: assault causing bodily harm
September 14, 1998 Court of Appeal for Ontario (McMurtry C.J.O., Catzman and Goudge JJ.A.)	Appeal allowed; acquittal set aside and conviction entered for common assault
October 5, 1998 Supreme Court of Canada	Notice of appeal as of right filed by Appellant Groot
November 4, 1998 Supreme Court of Canada	Application for leave to cross-appeal filed by Applicant Crown

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26596 **SHELL CANADA LIMITED - v. - HER MAJESTY THE QUEEN** (F.C.A.)

CORAM: Cory, Major and Binnie JJ.

The motion for extension of time and the application for leave to cross-appeal are granted. The costs for the application to extend time and the application to cross appeal are to be paid by the Crown in any event of the cause forthwith after taxation on the solicitor and client scale.

La demande de prorogation de délai et la demande de d'appel-incident sont accordées. Les dépens relatifs à ces demandes devront être payés par le ministère public quelle que soit l'issue de la cause, immédiatement après la taxation sur la base procureur-client.

15.2.1999

Before / Devant: CORY J.

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

Requête en prorogation du délai pour déposer la demande d'autorisation d'appel

Fred Thompson

v. (27024)

Her Majesty the Queen (Alta.)

GRANTED / ACCORDÉE Order will go extending the time for filing and serving the application for leave to appeal to February 10, 1999.

16.2.1999

Before / Devant: CHIEF JUSTICE LAMER

Motion to state a constitutional question

Requête pour énoncer une question constitutionnelle

Allan Granovsky

v. (26615)

Minister of Employment and Immigration (Ont.)

GRANTED / ACCORDÉE Notices of intention to intervene are to be filed no later than March 19, 1999.

1. Does the *Canada Pension Plan Act*, R.S.C. 1985, c. C-8, discriminate against persons on the basis of physical or mental disability by including periods of physical or mental disability in a claimant's contributory period, as such period is determined pursuant to paragraph 44(2)(b) of that Act, in claims for a disability pension under that Act, contrary to section 15 of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B of the Canada Act 1982 (U.K.), 1982, c. 11?

1. Le *Régime de pensions du Canada*, L.R.C. (1985), ch. C-8, crée-t-il à l'égard de certaines personnes une discrimination fondée sur les déficiences mentales ou physiques en incluant des périodes d'invalidité mentale ou physique dans la période cotisable d'un prestataire, selon la définition de cette période à l'al. 44(2)*b*) de cette loi, dans les demandes de pension d'invalidité faites en vertu de cette loi, en contravention de l'article 15 de la *Charte canadienne des droits et libertés*, partie I de la *Loi constitutionnelle de 1982*, annexe B de la *Loi de 1982 sur le Canada* (R.-U.) 1982, c. 11?

2. If so, does the discrimination come within only such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society under section 1 of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B of the *Canada Act 1982* (U.K.), 1982, c. 11?

2. Dans l'affirmative, cette discrimination est-elle une restriction prescrite par une règle de droit, dans des limites qui sont raisonnables et dont la justification peut se démontrer dans le cadre d'une société libre et démocratique selon l'article premier de la *Charte canadienne des droits et libertés*, partie I de la *Loi constitutionnelle de 1982*, annexe B de la *Loi de 1982 sur le Canada* (R.-U.) 1982, c. 11?

17.2.1999

Before / Devant: THE REGISTRAR

Motion to extend the time in which to file the appellant's book of authorites

Requête en prorogation du délai imparti pour déposer le cahier de jurisprudence et de doctrine de l'appelant

N.H., et al.

v. (26555)

H.M. et al. (B.C.)

GRANTED / ACCORDÉE Time extended to February 8, 1999.

18.2.1999

Before / Devant: McLACHLIN J.

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

Requête en prorogation du délai imparti pour déposer la demande d'autorisation d'appel

Mary Glass et al.

v. (27154)

Musquaem Indian Band et al. (B.C.)

GRANTED / ACCORDÉE Time extended to February 26, 1999.

19.2.1999

Before / Devant: McLACHLIN J.

Motion fo file a reply factum on appeal

Requête pour le dépôt d'un mémoire en réplique lors de l'appel

Fraser River Pile & Dredge Ltd.

v. (26415)

Can-Dive Services Ltd. (B.C.)

GRANTED / ACCORDÉE

24.2.1999

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai imparti pour signifier et produire le cahier de doctrine et de jurisprudence d'un intervenant

BY/PAR: Association des Juristes d'expression française de l'Ontario

IN/DANS: Jean Victor Beaulac

v. (26416)

Her Majesty the Queen (B.C.)

GRANTED / ACCORDÉE Time extended to February 22, 1999 / Délai prorogé au 22 février 1999.

24.2.1999

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai imparti pour signifier et déposer la réponse de l'intimée

John Leonard Bennett

v. (26590)

Her Majesty the Queen (Ont.)

GRANTED / ACCORDÉE Time extended to February 11, 1999.

24.2.1999

Before / Devant: McLACHLIN J.

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

Requête en prorogation du délai pour déposer la demande d'autorisation d'appel

Albert Fisher Canada Ltd.

v. (26940)

Win Sun Produce Company (B.C.)

GRANTED / ACCORDÉE Time extended to November 2, 1998.

24.2.1999

Before / Devant: LE JUGE BINNIE

Motion to set aside a stay of execution

Ville de Boisbriand et al.

c. (26583)

La Commission des droits de la personne et des droits de la jeunesse (Qué.)

DISMISSED / REJETÉE

This is an application by Réjeanne Mercier under s. 65(4) of the *Supreme Court Act*, R.S.C., 1985, c. S-26, to vacate a stay of execution which she believes was imposed automatically by s. 65(1) thereof. She is not a party to the appeal in this Court. The respondent here is the Commission des droits de la personne et des droits de la jeunesse, which has taken up Ms. Mercier's complaint against her employer, the City of Montreal.

The relevant facts are as follows. The applicant Réjeanne Mercier successfully completed a horticulture course, as well as an internship with the Montreal Botanical Garden, during which she carried out duties and responsibilities similar to those attached to the permanent position of gardener. Upon completion of the internship, she applied for the position of gardener with the Botanical Garden. During the hiring process, it was discovered that the applicant suffers slightly from scoliosis, which is a disability affecting the curvature of the spine. Consequently, the City of Montreal rejected her candidature. The applicant Réjeanne Mercier thereupon filed a complaint with the Commission des droits de la personne et des droits de la jeunesse claiming discrimination by her employer, the City of Montreal.

Requête en annulation du sursis à l'exécution

Il s'agit d'une demande présentée par Réjeanne Mercier aux termes du par. 65(4) de la *Loi sur la Cour suprême*, L.R.C. (1985), ch. S-26, en vue d'obtenir l'annulation d'un sursis d'exécution qui, à son avis, a été automatiquement imposé par le par. 65(1) de cette loi. Elle n'est pas partie au pourvoi devant notre Cour. L'intimée en l'espèce est la Commission des droits de la personne et des droits de la jeunesse qui a repris la plainte de Mme Mercier contre son employeur, la ville de Montréal.

Les faits pertinents sont les suivants. La requérante Réjeanne Mercier a réussi un cours d'horticulture, ainsi qu'un stage au Jardin botanique de Montréal pendant lequel elle s'est acquittée de devoirs et de responsabilités analogues à ceux d'un poste permanent de jardinier. À la fin de son stage, elle a posé sa candidature à un poste de jardinier au Jardin botanique. Pendant la procédure d'embauche, on a appris que la requérante souffrait d'une légère scoliose, une invalidité tenant à la déviation de la colonne vertébrale. Par conséquent, la ville de Montréal a rejeté sa candidature. La requérante Réjeanne Mercier a alors déposé une plainte auprès de la Commission des droits de la personne et des droits de la jeunesse alléguant la discrimination de la part de son employeur, la ville de Montréal.

Subsequently, medical opinions confirmed that her disability would not prevent her from carrying out the duties of the position applied for. The City agreed to hire Ms. Mercier to this position, provided that a settlement was reached with respect to her claim for compensation. No settlement was concluded and the Commission applied to the Tribunal des droits de la personne on behalf of Ms. Mercier for compensation. The Tribunal des droits de la personne concluded, however, that as the applicant's disability did not impose functional limitations, it did not constitute a "handicap" under the Quebec *Charter of Human Rights and Freedoms*, R.S.Q., c. C-12. Consequently, it dismissed the complaint. The Quebec Court of Appeal reversed this decision: [1998] R.J.Q. 688. It found that functional limitations were not necessary to constitute a "handicap" under the Quebec *Charter* and sent the matter back to the Tribunal to deal with the remaining issues according to the corrected view of the law. It is this "corrected view of the law" that forms the subject matter of the appeal in this Court between the municipal employer and the Commission.

Par la suite, des opinions médicales ont confirmé que son invalidité ne l'empêcherait pas de s'acquitter des devoirs du poste auquel elle avait posé sa candidature. La ville a accepté d'embaucher Mme Mercier à ce poste, à condition de parvenir à une entente relativement à sa demande d'indemnisation. Aucune entente n'ayant été conclue, la Commission s'est adressée au Tribunal des droits de la personne au nom de Mme Mercier en vue d'obtenir une indemnisation. Le Tribunal des droits de la personne a cependant jugé qu'étant donné que l'invalidité de la requérante n'imposait pas de limitations fonctionnelles, elle ne constituait pas un «handicap» au sens où l'entend la *Charte des droits et libertés de la personne*, L.R.Q., ch. C-12, du Québec. Par conséquent, il a rejeté la plainte. La Cour d'appel du Québec a infirmé cette décision: [1998] R.J.Q. 688. Elle a conclu que la présence de limitations fonctionnelles n'était pas nécessaire pour qu'il y ait un «handicap» au sens de la *Charte* du Québec et elle a renvoyé l'affaire au Tribunal pour qu'il examine les questions non résolues conformément à la perception rectifiée du droit. C'est cette perception rectifiée du droit qui fait l'objet du pourvoi devant notre Cour entre la municipalité employeuse et la Commission.

A companion appeal involves a claim of discrimination on similar grounds by Mr. Palmerino Troilo against the City of Boisbriand. He has not joined in Ms. Mercier's application for relief against the presumed stay of execution. However, Ms. Mercier seeks an order to permit the Tribunal proceedings to continue in both cases.

Un pourvoi connexe vise une plainte de discrimination pour des motifs similaires portée par M. Palmerino Troilo contre la ville de Boisbriand. Il ne s'est pas joint à la demande de Mme Mercier concernant le sursis d'exécution présumé. Toutefois, Mme Mercier cherche à obtenir une ordonnance qui permettrait la reprise des procédures devant le Tribunal dans les deux affaires.

Brief History of the Stay of Proceedings

On March 24, 1998, Forget J.A. of the Court of Appeal dismissed the application of the City of Montreal for an order staying the execution of that court's judgment remitting these cases back to the Tribunal des droits de la personne on the basis that the City intended to apply for leave to appeal to this Court. The motion was brought pursuant to art. 522.1 of the Quebec *Code of Civil Procedure*, R.S.Q., c. C-25. Forget J.A. concluded that the municipal employer had not met the onus laid down in the authorities to obtain a stay of execution.

Court historique de la suspension des procédures

Le 24 mars 1998, le juge Forget de la Cour d'appel a rejeté la demande présentée par la ville de Montréal en vue d'obtenir une ordonnance de sursis d'exécution du jugement de cette cour qui renvoyait ces affaires devant le Tribunal des droits de la personne, au motif que la ville avait l'intention de demander une autorisation d'appel devant notre Cour. La requête a été présentée conformément à l'art. 522.1 du *Code de procédure civile*, L.R.Q., ch. C-25. Le juge Forget a conclu que la municipalité employeuse n'avait pas réussi à prouver les éléments établis par la jurisprudence pour l'obtention d'un sursis d'exécution.

The City's motion for a stay having failed, the hearings thereupon resumed before the Tribunal des droits de la personne pursuant to the original judgment of the Quebec Court of Appeal. The Tribunal reserved

its decision on September 11, 1998. Before the Tribunal could render its decision, this Court granted the City leave to appeal on October 8, 1998 and the appellant, the City of Montreal, served its notice of appeal on November 3, 1998.

At that point all parties apparently concluded that the proceedings before the Tribunal were automatically stayed by reason of s. 65(1) of the *Supreme Court Act*, and that a "stay of execution" prevented the Tribunal from rendering its decision. Section 65(1) of the *Supreme Court Act* reads as follows:

> **65.** (1) On filing and serving the notice of appeal and depositing security as required by section 60, execution shall be stayed in the original cause, except that
>
> (*a*) where the judgment appealed from directs an assignment or delivery of documents or personal property . . .
>
> (*b*) where the judgment appealed from directs the execution of a conveyance or any other instrument . . .
>
> (*c*) where the judgment appealed from directs the sale or delivery of possession of real property or chattels real . . .
>
> (*d*) where the judgment appealed from directs the payment of money . . . . [Emphasis added.]

La requête en sursis de la ville ayant échoué, les audiences ont repris devant le Tribunal des droits de la personne conformément au jugement initial de la Cour d'appel du Québec. Le Tribunal a mis sa décision en délibéré le 11 septembre 1998. Avant que le Tribunal puisse rendre sa décision, notre Cour a accordé l'autorisation d'appel le 8 octobre 1998 et l'appelante, la ville de Montréal, a signifié son avis d'appel le 3 novembre 1998.

À ce moment-là, toutes les parties ont apparemment conclu qu'il y avait automatiquement suspension des procédures devant le Tribunal en raison du par. 65(1) de la *Loi sur la Cour suprême*, et qu'un «sursis d'exécution» empêchait le Tribunal de rendre sa décision. Le paragraphe 65(1) de la *Loi sur la Cour suprême* dit:

> **65** (1) Dès le dépôt du cautionnement et de l'avis d'appel, ainsi que la signification de ce dernier, en conformité avec l'article 60, il est sursis à l'exécution du jugement dans la cause en première instance. Il n'y a toutefois pas sursis:
>
> *a*) dans le cas où le jugement attaqué ordonne la cession ou livraison de documents ou de biens mobiliers [. . .]
>
> *b*) dans le cas où le jugement attaqué prescrit la souscription d'un acte translatif de propriété ou de tout autre acte [. . .]
>
> *c*) dans le cas où le jugement attaqué prescrit la vente ou la livraison de biens-fonds ou de biens personnels immobiliers [. . .]
>
> *d*) dans le cas où le jugement attaqué prescrit le paiement d'une somme [. . .] [Je souligne.]

Acting on her understanding of the words "execution shall be stayed" in s. 65(1), the complainant/applicant next filed a motion pursuant to s. 65(4) of the *Supreme Court Act* before the Quebec Court of Appeal (Chamberland J.A.) to vacate the stay of execution. Her motion to vacate was dismissed on the basis that to allow the proceedings before the Tribunal to continue would impose a complex and costly exercise that would be wasted if this Court should in the end allow the appeal. The complainant/applicant now comes before this Court seeking the same relief.

Analysis

Although the issue is not free from difficulty, I am of the view that the stay of execution contemplated by s. 65(1) of the *Supreme Court Act* does not have the effect of staying the proceedings of the Tribunal in the present case. It is necessary to underline the fact that s. 65(1) deals with the stay of execution of a judgment in appeal. Section 65(1) has to be read with s. 65.1(1), which in the English version provides that an application must be made for a stay of proceedings. Although s. 65.1(1) can be invoked at the leave stage, and s. 65(1) cannot, the point is that the *Supreme Court Act* in the English version of the Act clearly draws a distinction between a stay of execution in s. 65(1) and a stay of proceedings in s. 65.1(1). The French version, I should add, creates a measure of uncertainty by using the words "*sursis d'exécution*" in both s. 65(1) and s. 65.1(1). However, as the former grants an automatic stay subject to further order, and the latter provides no stay without an order, I think "*sursis d'exécution*" must be interpreted in the context of the different sections. The distinction drawn in the English version cannot be ignored. I should note, parenthetically, that the distinction between a stay of execution and a stay of proceedings is important in other jurisdictions as well: see, e.g., *Industrial Development Bank v. Canadian Plywood Corp.*, [1972] 1 W.W.R. 298 (B.C.S.C.).

This Court has held on a number of occasions that the filing of a notice of appeal to this Court does not result in an automatic suspension of the judgment appealed from. See, for example, *G. (L.) v. B. (G.)*, [1995] 3 S.C.R. 367, where Sopinka J. summarized the previous case law at para. 6 as follows:

Se fondant sur son interprétation des mots «il est sursis à l'exécution», au par. 65(1), la plaignante/requérante a ensuite déposé, conformément au par. 65(4) de la *Loi sur la Cour suprême*, une requête en annulation du sursis d'exécution devant la Cour d'appel du Québec (le juge Chamberland). Sa requête en annulation a été rejetée au motif que la reprise des procédures devant le Tribunal imposerait un exercice complexe et coûteux qui serait inutile si en fin de compte notre Cour accueillait le pourvoi. La plaignante/requérante s'adresse maintenant à notre Cour en vue d'obtenir le même redressement.

Analyse

Bien que la question ne soit pas exempte de difficultés, je suis d'avis que le sursis d'exécution visé au par. 65(1) de la *Loi sur la Cour suprême* n'entraîne pas la suspension des procédures devant le Tribunal dans la présente affaire. Il faut souligner que le par. 65(1) traite du sursis d'exécution d'un jugement en appel. Le paragraphe 65(1) doit s'interpréter conjointement avec le par. 65.1(1) qui, dans sa version anglaise, prévoit qu'une demande doit être présentée pour obtenir une suspension des procédures (*proceedings*). Bien que le par. 65.1(1) puisse être invoqué à l'étape de l'autorisation, et que le par. 65(1) ne puisse pas l'être, ce qui importe c'est que le texte anglais de la *Loi sur la Cour suprême* fait nettement une distinction entre le sursis d'exécution (*stay of execution*), au par. 65(1), et la suspension des procédures (*proceedings*), au par. 65.1(1). Je dois ajouter que le texte français crée quelque incertitude en utilisant l'expression «sursis d'exécution» aux par. 65(1) et 65.1(1). Cependant, puisque le premier accorde un sursis automatique, sauf ordonnance contraire, et que le second ne prévoit aucun sursis sans ordonnance à cet effet, je pense que le sursis d'exécution doit être interprété dans le contexte de chacun des articles. Il faut tenir compte de la distinction qui est faite dans le texte anglais de la Loi. Je voudrais incidemment faire remarquer que la distinction entre un sursis d'exécution et une suspension des procédures est aussi importante dans d'autres juridictions: voir, par ex., *Industrial Development Bank c. Canadian Plywood Corp.*, [1972] 1 W.W.R. 298 (C.S.C.-B.).

Notre Cour a statué, à plusieurs reprises, que le dépôt d'un avis d'appel devant elle ne donne pas lieu automatiquement à la suspension du jugement attaqué. Voir, par exemple, l'arrêt *G.(L.) c. B.(G.)*, [1995] 3 R.C.S. 367, dans lequel le juge Sopinka a résumé la jurisprudence antérieure, au par. 6:

An appeal to this Court does not result

> in a suspension of the judgment appealed from. Although execution of the judgment by a third party is stayed in the circumstances specified in s. 65 (see *Keable v. Attorney General of Canada*, [1978] 2 S.C.R. 135), a party seeking to suspend the operation of the judgment on appeal in other circumstances must resort to s. 65.1 and Rule 27. [Emphasis added.]

> Un pourvoi devant notre Cour n'entraîne pas le sursis d'exécution du jugement qui en fait l'objet. Bien qu'il y ait sursis d'exécution du jugement par un tiers dans les circonstances précisées à l'art. 65 (voir l'arrêt *Keable* c. *Procureur général du Canada*, [1978] 2 R.C.S. 135), la partie qui veut obtenir, dans d'autres circonstances, la suspension de l'exécution du jugement porté en appel doit recourir à l'art. 65.1 et à la règle 27. [Je souligne.]

The reference to the *Keable* case is to the statement of Laskin C.J. at p. 138 wherein the Chief Justice, after a hearing by the full Court, pronounced as follows:

La référence à l'arrêt *Keable* vise la déclaration que le juge en chef Laskin, après une audience de la Cour au complet, a faite à la p. 138:

> It is my opinion, in any event, that reliance on s. 70 [now s. 65] of the *Supreme Court Act* as prescribing an automatic stay of the order of suspension of the Keable Commission proceedings is misconceived. That provision has in view, as the exceptions therein make clear and as is evident from ss. 71 and 72 [now ss. 66 and 67], the intervention, for example, of a sheriff to carry out a direction in implementation of a judgment, where the judgment itself is left unimpaired pending the determination of an appeal to this Court.

> Quoi qu'il en soit, j'estime qu'on ne saurait à bon droit prétendre que l'art. 70 [maintenant art. 65] de la *Loi sur la Cour suprême* prévoit un sursis automatique à l'ordre de suspension des procédures de la Commission Keable. Comme il ressort clairement des exceptions énumérées et des art. 71 et 72 [maintenant art. 66 et 67], l'art. 70 vise l'intervention du shérif, par exemple, pour exécuter un jugement pendant que ce jugement garde son plein effet tant que cette Cour n'a pas statué.

This interpretation of s. 65 was confirmed again by this Court in *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311, where Sopinka and Cory JJ. stated at pp. 328-29:

Cette interprétation de l'art. 65 a été confirmée de nouveau par notre Cour dans l'arrêt *RJR-MacDonald Inc. c. Canada (Procureur général)*, [1994] 1 R.C.S. 311, dans lequel les juges Sopinka et Cory déclaraient aux p. 328 et 329:

> Examples of the former [an order arresting execution of the Court's process by a third party], traditionally described as stays of execution, are contained in the subsections of s. 65 of the Act which have been held to be limited to preventing the intervention of a third party such as a sheriff but not the enforcement of an order directed to a party. [Emphasis added.]

> Des exemples des premiers cas [une ordonnance qui sursoit à l'exécution des procédures de la Cour par un tiers], traditionnellement qualifiés de sursis d'exécution, sont prévus à l'art. 65 de la Loi que l'on a interprété comme visant à empêcher l'intervention d'une tierce partie comme un shérif, mais non l'exécution d'une ordonnance visant une partie. [Je souligne.]

The interpretation requiring "intervention by a third party" is admittedly not immediately obvious from the text of s. 65(1) because paras. (*a*) to (*d*) enumerate as exceptions four specified activities required of the unsuccessful party none of which involve the "intervention of a third party"such as the sheriff. The usual inference would be that conduct of the parties not included in the exceptions would be stayed. In para. (*b*), for example, it is provided that where the judgment appealed from directs the execution of a conveyance or other instrument, the execution of the judgment shall not be stayed until the instrument has been executed and deposited with the proper officer of the court appealed

from to abide the judgment of the Supreme Court. There would be no need for this "exception" unless the stay imposed by the opening words of s. 65 would otherwise relieve the unsuccessful party (as opposed to a third party such as a sheriff) from executing the instrument. The same observation can be made in relation to paras. (*a*), (*c*) and (*d*). Be that as it may, the "third party intervention" gloss was arrived at in the earlier judgments of this Court by reading s. 65 together with s. 66 (fiat to sheriff when security deposited) and s. 67 (money levied and not paid over before fiat). It was concluded that the entire group of sections referred to execution in the sense of enforcement action taken by some third party such as the sheriff. The result is that while s. 65(1) must be given effect according to its terms, the section as a whole is to be read restrictively in accordance with the interpretation authoritatively settled by the full Court in *Keable*, *supra*, *G. (L.) v. B. (G.)*, *supra*, and *RJR-MacDonald*, *supra*, as previously stated.

Il faut reconnaître que l'interprétation exigeant «l'intervention d'une tierce partie» n'est pas tout à fait évidente à partir du libellé du par. 65(1) parce que les alinéas *a*) à *d*) énumèrent comme exceptions quatre activités précises exigées de la partie qui n'a pas eu gain de cause, dont aucune ne suppose l'«intervention d'une tierce partie» comme un shérif. On pourrait normalement en déduire que les activités des parties non visées par les exceptions feraient l'objet d'un sursis. L'alinéa *b*), par exemple, prévoit qu'il n'y a pas sursis dans le cas où le jugement attaqué prescrit la souscription d'un acte translatif de propriété ou d'un autre acte, tant que l'acte n'a pas été souscrit et déposé auprès du fonctionnaire compétent de la juridiction inférieure, dans l'attente du jugement de la Cour suprême. Cette «exception» n'est pas nécessaire à moins que le sursis imposé par le préambule de l'art. 65 ne dégage d'une autre façon la partie qui n'a pas eu gain de cause (par opposition à une tierce partie comme un shérif) de l'obligation de signer l'acte. On peut faire la même remarque à l'égard des alinéas *a*), *c*) et *d*). Quoi qu'il en soit, on en est venu à parler de l'«intervention d'une tierce partie» dans les jugements antérieurs de notre Cour en interprétant l'art. 65 en corrélation avec l'art. 66 (ordre de surseoir adressé au shérif) et l'art. 67 (prélèvement d'argent sans versement correspondant). On a conclu que l'ensemble des articles faisait référence à l'exécution dans le sens d'une mesure d'exécution d'un tiers comme le shérif. Il s'ensuit que, tandis que l'on doit donner effet au par. 65(1) selon son libellé, l'article dans son ensemble doit s'interpréter de façon restrictive conformément à l'interprétation péremptoirement donnée par la Cour au complet dans *Keable*, *G.(L.) c. B.(G.)*, et *RJR-MacDonald*, précités, comme je l'ai déjà mentionné.

Even a broader reading of s. 65(1), however, would not produce a stay of proceedings before the Tribunal in this case. The Quebec Court of Appeal in its judgment interpreted the applicable law and referred the case back to the Tribunal. No relief was granted against the applicant or the unsuccessful employers. The effect of the judgment was simply to require the Tribunal (and not any of the parties to the appeal) to reconsider its earlier decision on a corrected view of the law.

Cependant, même une interprétation plus large du par. 65(1) ne donnerait pas lieu à une suspension des procédures devant le Tribunal dans la présente affaire. La Cour d'appel du Québec dans son jugement a interprété la loi applicable et a renvoyé l'affaire devant le Tribunal. Aucun redressement n'a été accordé ni contre la requérante, ni contre les employeurs qui n'ont pas eu gain de cause. Le jugement avait simplement pour effet d'exiger que le Tribunal (et non une des parties à l'appel) réexamine sa décision antérieure selon une perception rectifiée du droit.

Such a judgment gives rise to a potential stay of proceedings rather than a stay of execution. "Execution" is the key word in s. 65(1). *Jowitt's Dictionary of English Law* (2nd ed. 1977), defines "execution" as "the last state of a suit whereby judgment is enforced". This definition was accepted judicially by Gushue J.A. in *Corner Brook Pulp and Paper Ltd. v. Bowater Inc.* (1989), 246 A.P.R. 353 (Nfld. C.A.), at p. 355. Similarly, in *R. v. Consolidated Fastfrate*

Transport Inc. (1995), 40 C.P.C. (3d) 160 (Ont. C.A.), Weiler J.A. placed a restricted meaning on the notion of "execution" at p. 199:

> Execution . . . refers to the process by which a successful plaintiff may enforce a judgment. It encompasses those remedies available to a creditor after a court has declared that a sum of money is immediately due and owing by a debtor.

See also *Industrial Development Bank v. Canadian Plywood Corp.*, *supra*, *per* Seaton J., at p. 301.

It is not necessary for present purposes to define "execution" in the abstract. No doubt the word takes its colour from its surroundings. In light of the specific provision in the English version of s. 65.1(1) for a stay of proceedings, which may be used as an interpretive guide to the French version of the same text, no stay of proceedings is automatically imposed by s. 65(1). If such a stay is desired by a party who has "served and filed a notice of application for leave to appeal" (in this case the employer), it may move under s. 65.1(1) and Rule 27 at any time thereafter (or even beforehand under s. 65.1(2)). The right to apply is not cut off by the granting of leave. Section 65.1(1) does not express any such limitation. Rule 27, which is also not limited as to time, speaks of "execution or other relief against [the] judgment or order" (emphasis added).

In the result, I conclude that there is no stay in effect and there is thus no need for the applicant to seek its dissolution. A stay that does not exist cannot be dissolved. The complainant/applicant therefore loses her motion but obtains her desired relief, which is a ruling that the Tribunal is at liberty to continue with its proceedings.

The motion will therefore be dismissed but, in the circumstances, without costs.

Un tel jugement donne lieu à une possibilité de suspension des procédures plutôt qu'à un sursis d'exécution. Le mot «exécution» est le terme clé du par. 65(1). *Jowitt's Dictionary of English Law* (2e éd. 1977), définit l'«exécution» comme la [TRADUCTION] «dernière étape d'une action en justice par laquelle le jugement est mis à effet». Cette définition a été reconnue judiciairement par le juge Gushue dans l'arrêt *Corner Brook Pulp and Paper Ltd. c. Bowater Inc.* (1989), 246 A.P.R. 353 (C.A.T.-N.), à la p. 355. De même, dans l'arrêt *R. c. Consolidated Fastfrate Transport Inc.* (1995), 40 C.P.C. (3d) 160 (C.A. Ont.), le juge Weiler a donné un sens restreint à la notion d'«exécution» à la p. 199:

> [TRADUCTION] L'exécution [. . .] correspond aux modalités par lesquelles un demandeur qui a gain de cause peut mettre à effet un jugement. Elle s'étend aux recours dont dispose un créancier après qu'un tribunal a déclaré qu'une somme d'argent est immédiatement due par un débiteur.

Voir également *Industrial Development Bank c. Canadian Plywood Corp.*, précité, le juge Seaton, à la p. 301.

Il n'est pas nécessaire aux fins du présent pourvoi de définir «exécution» dans l'abstrait. Il ne fait aucun doute que le sens du mot est influencé par ce qui l'entoure. Toutefois, compte tenu de la mention spécifique de la suspension des procédures dans la version anglaise du par. 65.1(1), mention qui peut guider l'interprétation de la version française du même texte, aucune suspension des procédures n'est imposée automatiquement par le par. 65(1). Si la partie qui a «signifié et déposé l'avis de la demande d'autorisation d'appel» (l'employeur dans la présente affaire) souhaite obtenir une telle suspension, elle peut la demander en vertu du par. 65.1(1) et de la règle 27 en tout temps par la suite (ou même avant en vertu du par. 65.1(2)). Le droit de présenter une demande n'est pas retiré par l'obtention de l'autorisation. Le paragraphe 65.1(1) ne prévoit pas de telle restriction. La règle 27, qui ne prescrit pas de délai non plus, parle de «l'exécution [du] jugement ou de [l']ordonnance ou un autre redressement» (je souligne).

Par conséquent, je conclus qu'il n'y a pas de suspension en vigueur et qu'il n'est donc pas nécessaire que la requérante en demande l'annulation. Une suspension qui n'existe pas ne peut pas être annulée. La requête de la plaignante/requérante est par conséquent rejetée, mais elle obtient le redressement souhaité, savoir une décision selon laquelle le Tribunal est libre de reprendre ses procédures.

Par conséquent, la requête est rejetée, mais, compte tenu des circonstances, sans dépens.

25.2.1999

Before / Devant: McLACHLIN J.

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

Requête en prorogation du délai imparti pour signifier et déposer la demande d'autorisation

Natalie Charbel

v. (27155)

Daniel Tzintzis et al. (Que.)

GRANTED / ACCORDÉE Délai prorogé au 14 avril 1999 / Time extended to April 14, 1999.

26.2.1999

Before / Devant: McLACHLIN J.

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

Requête en prorogation du délai pour déposer la demande d'autorisation d'appel

Sun News Lal

v. (27094)

Her Majesty the Queen (B.C.)

GRANTED / ACCORDÉE Time extended to January 22, 1999, *nunc pro tunc*.

1.3.1999

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai imparti pour signifier et déposer la réponse de l'intimé

Kirsikka Schmalfuss

v. (26927)

Howard J. Feldman (F.C.A.)(Ont.)

GRANTED / ACCORDÉE Time extended to February 15, 1999.

1.3.1999

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the appellant's response to the motion to quash

Requête en prorogation du délai imparti pour signifier et déposer la réponse de l'appelant à la requête en annulation

Austin Ralph "Joe" Bunn

v. (26918)

Her Majesty the Queen (Ont.)

GRANTED / ACCORDÉE Time extended to February 25, 1999.

2.3.1999

Before / Devant: BASTARACHE J.

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

BY/PAR: A.G. of Canada;
Aboriginal Legal Services of Toronto Inc.

IN/DANS: James Warren Wells

v. (26642)

Her Majesty the Queen (Alta.)

GRANTED / ACCORDÉE

a) The motion for leave to intervene of the applicant Attorney General of Canada is granted, the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length and to present oral argument not to exceed 15 minutes.

b) The motion for leave to intervene of the applicant Aboriginal Legal Services of Toronto Inc. is granted, the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length and to present oral argument not to exceed 15 minutes.

25.2.1999

Canadian Pacific Limited

v. (27163)

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

1.3.1999

Ron Stewart

v. (27042)

United States of America (B.C.)

(leave)

1.3.1999

Ron Stewart

v. (27043)

Minister of Justice for Canada (B.C.)

(leave)

24.2.1999

CORAM: Chief Justice Lamer and L'Heureux-Dubé, Gonthier, Cory, McLachlin, Iacobucci, Major, Bastarache and Binnie JJ.

Jean Victor Beaulac

v. (26416)

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

David Griffiths, for the appellant.

Bernard Laprade and Michel Francoeur, for the intervener the A.G. of Canada.

Richard L. Tardif et Ingride Roy, pour l'intervenant le Commissaire aux langues officielles.

Nathalie Des Rosiers, pour l'intervenante l'Association des juristes d'expression française de l'Ontario.

Laurent J. Roy, c.r. et Michel Chartier, pour l'intervenante l'Association des juristes d'expression française du Manitoba.

William F. Ehrcke, Q.C. and Geoffrey R. Gaul, for the respondent.

Jean-Yves Bernard, pour l'intervenant le procureur général du Québec.

APPEAL RESERVED / APPEL EN DÉLIBÉRÉ

MOTION TO ADDUCE NEW EVIDENCE DISMISSED / REQUÊTE VISANT À PRODUIRE DE NOUVEAUX ÉLÉMENTS DE PREUVE REJETÉE

Nature of the case:

Criminal law - Language rights - In denying the Appellant's application for a bilingual trial did the Courts below apply an appropriate standard under sub-section 530(4) of the *Criminal Code*?

Nature de la cause:

Droit criminel - Droits linguistiques - En rejetant la demande de l'appelant sollicitant un procès bilingue, les cours d'instance inférieure ont-elles appliqué une norme appropriée en vertu du par. 530(4) du *Code criminel*?

25.2.1999

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

Fraser River Pile & Dredge Ltd.

v. (26415)

Can-Dive Services Ltd. (B.C.)
RESERVED / EN DÉLIBÉRÉ

David F. McEwen, for the appellant.

D. Barry Kirkham, Q.C. and Gregory J. Tucker, for the respondent.

Nature of the case:

Commercial law - Contracts - Insurance - Insurance

marine - Procedural law - Courts - *Stare decisis* - Application of *Vandepitte v. Preferred Accident Insurance Corporation of New York*, [1933] A.C. 70 (P.C.) - Whether a provincial appellate court may treat a decision of this Court and the Privy Council as impliedly overruled - Whether the court below erred in holding that a third party who is not specifically named in an insurance policy, but falls within a generic class described therein, can obtain the benefit of that policy contrary to the subjective intention of the insured and the insurer - Whether the court below erred in holding that a waiver of subrogation bars an action by the insured against the tortfeasor.

Nature de la cause:

Droit commercial — Contrats — Assurance — Assurance maritime — Droit procédural — Tribunaux — *Stare decisis* — Application de *Vandepitte c. Preferred Accident Insurance Corporation of New York*, [1933] A.C. 70 (C.P.) — Une cour d'appel provinciale peut-elle traiter un arrêt de la Cour suprême ou du Conseil privé comme implicitement renversé? — La Cour d'appel a-t-elle commis une erreur en statuant qu'un tiers qui n'est pas nommément désigné dans une police d'assurance, mais qui appartient à une catégorie générale qui y est décrite, peut obtenir l'indemnité prévue par la police, à l'encontre de l'intention subjective de l'assuré et de l'assureur? — La Cour d'appel a-t-elle commis une erreur en statuant qu'une renonciation à la subrogation interdit toute action par l'assuré contre l'auteur de délit?

26.2.1999

CORAM: Chief Justice Lamer and L'Heureux-Dubé, Gonthier, Cory, McLachlin, Major and Binnie JJ.

Glenn Norman Davis

v. (26441)

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

Robin Reid, for the appellant.

Wayne Gorman, for the respondent.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Criminal law - Evidence - Sexual assault - Extortion of sexual favours by threatened exposure of photographs - Submission and the vitiation of consent in relation to P.V.B. - Application of the Kienapple principle - Defence of honest belief in relation to E.V.K. - Reasonable doubt.

Nature de la cause:

Droit criminel - Preuve - Agression sexuelle - Extorsion de faveurs sexuelles par menace de présenter des photographies - Soumission et vice du consentement de la part de P.V.B. - Application du principe Kienapple - Défense de croyance sincère relativement à E.V.K. - Doute raisonnable.

WEEKLY AGENDA **ORDRE DU JOUR DE LA SEMAINE**

AGENDA for the week beginning March 8, 1999.
ORDRE DU JOUR pour la semaine commençant le 8 mars 1999.

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: APPEALS

The Spring Session of the Supreme Court of Canada will commence April 19, 1999.

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

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

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

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

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

Please consult the Notice to the Profession of October 1997 for further information.

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.

DÉLAIS: APPELS

La session du printemps de la Cour suprême du Canada commencera le 19 avril 1999.

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 de l'appelant, son mémoire et son recueil de jurisprudence et de doctrine doivent être déposés dans les quatre mois de l'avis d'appel.

Le dossier de l'intimé (le cas échéant), son mémoire et son recueil de jurisprudence et de doctrine doivent être déposés dans les huit semaines suivant la signification de ceux de l'appelant.

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

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

Veuillez consulter l'avis aux avocats du mois d'octobre 1997 pour plus de renseignements.

Le registraire inscrit l'appel pour audition après le dépôt du mémoire de l'intimé ou à l'expiration du délai pour le dépôt du mémoire de l'intimé.

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 1998 -

OCTOBER - OCTOBRE

S D	M L	T M	W M	T J	F V	S S
				1	2	3
4	**M 5**	**6**	**7**	**8**	**9**	10
11	H 12	**13**	**14**	**15**	**16**	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

NOVEMBER - NOVEMBRE

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

DECEMBER - DECEMBRE

S D	M L	T M	W M	T J	F V	S S
		1	**2**	**3**	**4**	5
6	**M 7**	**8**	**9**	**10**	**11**	12
13	14	15	16	17	18	19
20	21	22	23	24	H 25	26
27	H 28	29	30	31		

- 1999 -

JANUARY - JANVIER

S D	M L	T M	W M	T J	F V	S S
					H 1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	**M 18**	**19**	**20**	**21**	**22**	23
24	**25**	**26**	**27**	**28**	**29**	30
31						

FEBRUARY - FÉVRIER

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

MARCH - MARS

S D	M L	T M	W M	T J	F V	S S
	M 1	2	3	4	5	6
7	8	9	10	11	12	13
14	**15**	**16**	**17**	**18**	**19**	20
21	**22**	**23**	**24**	**25**	**26**	27
28	29	30	31			

APRIL - AVRIL

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

MAY - MAI

S D	M L	T M	W M	T J	F V	S S
						1
2	**M 3**	4	5	6	7	8
9	10	11	12	13	14	15
16	**17**	**18**	**19**	**20**	**21**	22
23	H 24	**25**	**26**	**27**	**28**	29
30	31					

JUNE - JUIN

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

Sittings of the court:
Séances de la cour:

Motions:
Requêtes:

Holidays:
Jours fériés:

M

H

18 sitting weeks / semaines séances de la cour
81 sitting days / journées séances de la cour
9 motion and conference days / journées requêtes, conférences
3 holidays during sitting days / jours fériés durant les sessions