

**SUPREME COURT
OF CANADA**



**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

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Le Bulletin rassemble les procédures devant la Cour dans la langue du dossier. Quand un arrêt est rendu, on peut se procurer les motifs de jugement en adressant sa demande au registraire, accompagnée de 10 \$ par exemplaire. Le paiement doit être fait à l'ordre du Receveur général du Canada.

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**APPLICATIONS FOR LEAVE TO
APPEAL FILED**

Ivon Shearing

Richard C.C. Peck, Q.C.
Peck and Co.

v. (27782)

Her Majesty the Queen (B.C.)

William F. Ehrcke, Q.C.
Attorney General of British Columbia

FILING DATE 3.3.2000

Alexander William Hart

Frank E. DeMont
Daley & DeMont

v. (27784)

Her Majesty the Queen (N.S.)

James A. Gumpert, Q.C.
Public Prosecutions Service

FILING DATE 3.3.2000

Clément Mukoko Mbaka Mankwe

Pascal Lescarbeau

c. (27791)

Sa Majesté la Reine (Qué.)

Christian Jarry
Procureur général du Québec

DATE DE PRODUCTION 13.3.2000

Royal Donald McCormack

Jeffrey R. Ray

v. (27793)

Her Majesty the Queen (B.C.)

Janet Henchey
A.G. of Canada

FILING DATE 8.3.2000

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

Earl Francis Penfold

Kevin M. Sproule
Sproule MacNaughton

v. (27794)

Her Majesty the Queen (Alta.)

Larry R.A. Ackerl
A.G. of Canada

FILING DATE 9.3.2000

Abi Biotechnology Inc.

Sidney Green, Q.C.

v. (27795)

Apotex Inc. et al. (Man.)

D.C.H. McCaffrey, Q.C.
Taylor McCaffrey

FILING DATE 9.3.2000

Ioannis Sarvanis

David R. Tenzon
Thomson, Rogers

v. (27796)

**Her Majesty the Queen in Right of Canada
(F.C.A.)**

FILING DATE 9.3.2000

Giacinto Arcuri

Joseph L. Bloomenfeld

v. (27797)

Her Majesty the Queen (Ont.)

Feroza Bahbah
A.G. for Ontario

FILING DATE 9.3.2000

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

**DEMANDES SOUMISES À LA COUR
DEPUIS LA DERNIÈRE PARUTION**

MARCH 20, 2000 / LE 20 MARS 2000

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

**Canadian Media Guild, Local 30213 of the Newspaper Guild/Communications Workers of America (formerly
Canadian Wire Service Guild, Local 213 of the Newspaper Guild),
and Douglas C. Stanley, Arbitrator**

v. (27378)

Canadian Broadcasting Corporation (Nfld.)

NATURE OF THE CASE

Administrative Law - Judicial Review - Labour Law - Arbitration - Arbitrator cited a “central core” test for determining proper classification of an employee between two grades of employment - Arbitrator held employee should be classified at higher grade based on performance of tasks associated with that grade - Employee performing tasks associated with higher grade on average five percent of her time - Whether arbitrator departed from the cited test and asked a wrong question - Whether asking the wrong question gave rise to ground for review or resulted in a patently unreasonable decision - Degree of deference due to arbitrator’s decision - Whether decision of arbitrator was not correct or patently unreasonable - Whether decision of a consensual arbitrator acting within his jurisdiction is immune from judicial review even if wrong or patently unreasonable - Whether test in the arbitral jurisprudence on reclassification is a rigid formula with the authority of common law.

PROCEDURAL HISTORY

May 14, 1997 Supreme Court of Newfoundland (Adams J.)	Arbitrator’s decision quashed
April 27, 1999 Court of Appeal of Newfoundland (Mahoney, Green, O’Neill JJ.A.)	Appeal dismissed
June 28, 1999 Supreme Court of Canada	Application for leave to appeal filed

Osoyoos Indian Band

v. (27408)

The Town of Oliver and Her Majesty the Queen in Right of the Province of British Columbia (B.C.)

NATURE OF THE CASE

Statutes - Interpretation - Statutory instrument - Federal Order-in-Council 1957-577 - Whether s. 35 of the *Indian Act* should be interpreted and construed in light of the purposes of the *Indian Act* and by reference to and the application of the law related to the Indian interest in reserve lands, including the law of aboriginal title, and the law dealing with the

Crown's relationship to Indian people and Indian lands, in particular, the law of extinguishment - Whether s. 35 of the *Indian Act* authorizes the absolute disposition of the Indian interest and removal of lands from the reserve.

PROCEDURAL HISTORY

April 7, 1997 Supreme Court of British Columbia (Mackenzie J.)	Finding that lands are not taxable pursuant to ss. 35 and 83(1)(a) of the <i>Indian Act</i> , and that by federal Order-in-Council 1957-577, lands are not assessable or taxable by the Applicant
May 4, 1999 Court of Appeal for British Columbia (Lambert [dissenting], Prowse and Newbury JJ.A.)	Applicant's appeal dismissed
August 5, 1999 Supreme Court of Canada	Application for leave to appeal filed
August 25, 1999 Supreme Court of Canada (Iacobucci J.)	Motion for an extension of time granted

Ontario Power Generation Inc.

v. (27435)

Minister of Revenue (Ont.)

NATURE OF THE CASE

Taxation - Statutes - Interpretation - Assessment - *Retail Sales Tax Act*, R.S.O. 1980, c. 454, s. 2(7) - Whether the interpretation of this statutory provision and other similar legislation involve an issue of public importance - Whether uncertainty has been created as a result of this decision - Whether the Court of Appeal erred in law.

PROCEDURAL HISTORY

February 2, 1996 Ontario Court of Justice (General Division) (Borins J.)	Applicant's appeals from assessment were dismissed
May 19, 1999 Court of Appeal for Ontario (Morden, Laskin, and Rosenberg JJ.A.)	Appeal dismissed with costs
August 16, 1999 Supreme Court of Canada	Application for leave to appeal filed

Coca-Cola Ltd., and Coca-Cola Bottling Ltd.

v. (27392)

Musadiq Pardhan c.o.b. as Universal Exporters, 1106729 Ontario Limited c.o.b. as Universal Exporters, John Doe, Jane Doe and Other Persons unknown to the plaintiffs who offer for sale, sell, export, manufacture, advertise, or deal in transshipped Coca-Cola Products (F.C.A.)

NATURE OF THE CASE

Property law - Trade marks - Statutes - Interpretation - *Trade-marks Act*, R.S.C. 1985, c. T-13, s. 2 “use”, s. 22 - Whether the *Trade-marks Act* entitles a Canadian trade-mark owner to enjoin unauthorized exports of its product from Canada - Whether Canadian trade-mark owners has any right of enforcement after first sale of its products - Whether the Court of Appeal correctly interpreted the meaning of “use” in the *Trade-marks Act*.

PROCEDURAL HISTORY

January 8, 1996 Federal Court of Canada, Trial Division (MacKay J.)	Interim and interlocutory injunction granted against Respondents
November 27, 1997 Federal Court of Canada, Trial Division (Wetston J.)	Motion allowed in part; statement of claim alleging infringement of trade marks struck out
May 22, 1998 Federal Court of Canada, Trial Division (MacKay J.)	Action dismissed and interlocutory injunction dissolved
April 12, 1999 Federal Court of Appeal (Strayer, Linden, Robertson JJ.A.)	Appeal dismissed
July 9, 1999 Supreme Court of Canada	Application for leave to appeal filed

**CORAM: L’Heureux-Dubé, Bastarache and LeBel JJ. /
Les juges L’Heureux-Dubé, Bastarache et LeBel**

Sa Majesté la Reine

c. (27652)

Réjean Parent (Crim.)(Qué.)

NATURE DE LA CAUSE

Droit criminel - Défense - Provocation - Directives du juge au jury - La Cour d’appel a-t-elle erré en droit en ne reconnaissant pas que le juge du procès avait lui-même commis une erreur dans son exposé au jury en créant une défense de colère distincte de la défense de provocation?

HISTORIQUE PROCÉDURAL

Le 28 novembre 1997
Cour supérieure du Québec
(Desjardins j.c.s.)

Intimé déclaré coupable d'homicide involontaire
coupable

Le 19 octobre 1999
Cour d'appel du Québec
(Mailhot, Rousseau-Houle et Biron [*ad hoc*] jj.c.a.)

Appel de la demanderesse contre le verdict rejeté

Le 17 décembre 1999
Cour suprême du Canada

Demande d'autorisation d'appel de la demanderesse
contre le verdict déposée

H.K.

c. (27745)

La Direction de la protection de la jeunesse (Qué.)

NATURE DE LA CAUSE

Droit de la famille - Mineurs - Procédure - Appel - Protection de la jeunesse - Hébergement en famille d'accueil - Art. 115 de la *Loi sur la protection de la jeunesse*, L.R.Q., ch. P-34.1, prévoyant la possibilité d'interjeter appel à la Cour d'appel, avec permission, d'un jugement de la Cour supérieure si la partie qui présente la demande démontre un intérêt suffisant à faire décider d'une question de droit seulement - La Cour d'appel a-t-elle erré en rejetant la requête pour permission d'appeler du demandeur?

HISTORIQUE PROCÉDURAL

Le 5 mai 1999
Cour du Québec (Chambre de la jeunesse)
(Ouellet j.c.q.)

Requête du Directeur de la protection de la jeunesse
pour révision et prolongation d'une ordonnance
prévoyant l'hébergement obligatoire de l'enfant du
demandeur dans une famille d'accueil accueillie en
partie

Le 6 octobre 1999
Cour supérieure du Québec
(Trahan j.c.s.)

Requête en appel du demandeur rejetée

Le 4 novembre 1999
Cour d'appel du Québec
(Chamberland j.c.a.)

Requête pour permission d'appel rejetée

Le 8 février 2000
Cour suprême du Canada

Demande d'autorisation d'appel et requête en
prorogation de délai déposées

La Continentale compagnie d'assurance du Canada

c. (27379)

Club de Golf Oka Inc. (Qué.)

NATURE DE LA CAUSE

Droit commercial - Assurances - Exclusions - Interprétation - Notions de «rébellion» ou «insurrection» - La Crise d'Oka, de l'été 1990 a-t-elle, à un moment donné, acquis caractère de rébellion, d'insurrection ou d'intervention du pouvoir militaire - L'intention de renverser le gouvernement est-elle essentielle à l'existence d'une situation d'insurrection, de rébellion, d'actes d'hostilités - La demanderesse était-elle justifiée, dans les circonstances de cette crise, de considérer exclus les dommages causés au terrain et aux autres installations de l'intimée?

HISTORIQUE PROCÉDURAL

Le 2 février 1996 Cour supérieure du Québec (Larouche j.c.s.)	Action de l'intimée accueillie; demanderesse condamnée à payer la somme de 425 849,10\$
Le 28 avril 1999 Cour d'appel du Québec (Rousseau-Houle, Otis, Nuss jj.c.a.)	Appel rejeté
Le 23 juin 1999 Cour suprême du Canada	Demande d'autorisation d'appel déposée

Robert Arcand et Claude Arcand

c. (27372)

Denharco Inc.

- et -

Fonds de solidarité des travailleurs du Québec (F.T.Q.) (Qué.)

NATURE DE LA CAUSE

Droit commercial - Droit des compagnies - Permission d'appel - Critères d'application de l'article 13 de la *Loi sur les arrangements avec les créanciers des compagnies*, 1985, L.R.C. c. C-36.

HISTORIQUE PROCÉDURAL

Le 7 avril 1999 Cour supérieure du Québec (Durocher j.c.s.)	Action des demandeurs rejetée
Le 27 avril 1999 Cour d'appel du Québec (Brossard j.c.a.)	Requête des demandeurs pour permission d'appeler accueillie en partie
Le 24 juin 1999 Cour suprême du Canada	Demande d'autorisation d'appel déposée

**CORAM: Gonthier, Binnie and Arbour JJ. /
Les juges Gonthier, Binnie et Arbour**

Oerlikon Aérospatiale Inc.

c. (27352)

Sa Majesté la Reine (C.A.F.)

NATURE DE LA CAUSE

Droit fiscal - Législation - Interprétation - Évaluation - Taxe d'affaires - Réserves fiscales - Calcul de capital sous la partie 1.3 de la *Loi de l'impôt sur le revenu* - Est-ce que les principes comptables généralement reconnus doivent servir à déterminer non seulement la valeur mais également la nature des éléments énumérés au paragraphe 181.2(3) de la *Loi*? - Est-ce qu'une «réserve» spécifiquement exclue du calcul du capital d'une société en vertu de l'alinéa 181.2(3)b) de la *Loi* peut être incluse dans ce même calcul par le biais des autres alinéas du paragraphe 181.2(3) de la *Loi* et, plus particulièrement, par le biais de l'alinéa 181.2(3)c) de la *Loi* à titre d'«avances»? - Est-ce que les paiements constituent des «avances» au sens de l'alinéa 181.2(3)c) de la *Loi*?

HISTORIQUE PROCÉDURAL

Le 23 mai 1997
Cour canadienne de l'impôt
(Archambault j.c.c.i.)

Appel de demanderesse à l'encontre de la cotisation
émise par l'intimée à l'égard de l'année d'imposition
1989 rejeté

Le 13 avril 1999
Cour d'appel fédérale
(Décary, Létourneau, Noël jj.c.a.)

Appel rejeté

Le 11 juin 1999
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Duca Community Credit Union Limited

v. (27417)

**Allen Sugarman, In Trust, Presidential Management and Development Corp., Yonge Crescent Holdings
Limited and Minicorp Realty Inc. (Ont.)**

NATURE OF THE CASE

Commercial law - Property law - Personal Property - Creditor and debtor - Unjust enrichment - *Personal Property Security Act*, R.S.O. 1990, c. P 10 - Whether someone can acquire a security interest in a licence to operate a nursing home - Whether a licence constitutes "property" - Interaction between the doctrine of unjust enrichment and personal property security legislation.

PROCEDURAL HISTORY

February 27, 1998
Ontario Court of Justice (General Division)
(Lederman J.)

Respondents held to have a perfected security interest in
licence to operate a nursing home in priority to Applicants
and be entitled to proceeds from sale of licence

May 27, 1999
Court of Appeal for Ontario
(McMurtry C.J.O., Finlayson, Charron JJ.A.)

Appeal dismissed

August 9, 1999

Application for leave to appeal filed

Supreme Court of Canada

Davinder Singh

v. (27491)

The Minister of Citizenship and Immigration (F.C.A.)

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Immigration - Administrative law - Security of the person, fundamental justice and right to fair trial - Natural justice - Application for Convention refugee status denied by Immigration and Refugee Board - Subsequent application for residency on humanitarian and compassionate grounds complicated by criminal convictions - Application for leave to commence an application for judicial review seeking damages and declaration of liability dismissed - Whether Federal Court erred in law in declining the application for leave for judicial review atating that the judgment under appeal is violative of the Applicant's *Charter* rights - Whether requirement to obtain leave before an application for judicial review may proceed is violative of *Charter* rights - Whether Federal Court Judges may dismiss leave applications without recording reasons - Whether Federal Court Judge failed to appreciate the matter of leave in the context of s. 3 of the *Immigration Act* - Whether such an approach is in consonance to the principles of natural justice and *Charter* rights.

PROCEDURAL HISTORY

June 25, 1997 Immigration and Refugee Board	Application for Convention refugee status denied
July 8, 1999 Federal Court of Canada, Trial Division (Gibson J.)	Order: leave to commence an application for judicial review and for judicial review dismissed
September 1, 1999 Supreme Court of Canada	Application for leave to appeal filed

Yvon Fortin et Rosy Lambert

c. (27400)

Fonds d'assurance responsabilité professionnelle de la Chambre des Notaires du Québec (Qué.)

NATURE DE LA CAUSE

Droit commercial - Assurance - Procédure civile - Désistement - Interprétation - Art. 2603 du *Code civil du Bas-Canada* - Art. 264 du *Code de procédure civile*, L.R.Q., c. C-25 - La Cour d'appel a-t-elle erré en refusant ou en négligeant de reconnaître les effets du désistement opposable à l'intimé - La Cour d'appel a-t-elle erré en concluant que les demandeurs avaient renoncé définitivement et irréversiblement à leur droit de poursuivre l'assureur en intentant initialement une action contre l'assuré, action de laquelle ils se sont désistés longtemps avant le procès?

HISTORIQUE PROCÉDURAL

Le 27 novembre 1995 Cour supérieure du Québec (Goodwin j.c.s.)	Action des demandeurs accueillie; intimé condamné à payer la somme de 67,500\$ aux demandeurs et la somme de 4,000\$ à la demanderesse
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APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST ISSUE

DEMANDES SOUMISES À LA COUR DEPUIS
LA DERNIÈRE PARUTION

Le 12 mai 1999
Cour d'appel du Québec
(LeBel, Baudouin, et Biron [*ad hoc*] jj.c.a.)

Appel accueilli; action des demandeurs rejetée

Le 16 juillet 1999
Cour suprême du Canada

Demande d'autorisation d'appel déposée

**JUDGMENTS ON APPLICATIONS
FOR LEAVE**

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

MARCH 23, 2000 / LE 23 MARS 2000

27634 **ZACHARY CARMICHAEL v. HER MAJESTY THE QUEEN** (Ont.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

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

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

NATURE OF THE CASE

Criminal law - Trial - Jury charge - *R. v. Vetrovec*, [1982] 1 S.C.R. 811 warning - Closing address of the Crown - Whether in the prosecutor's closing address he improperly invited the jury to consider the Applicant's demeanour when testifying as a circumstance identifying him as the "shooter" - Whether in the prosecutor's closing address he improperly invited the jury to use the rejection of the Applicant's testimony as a circumstance identifying him as the "shooter" - Whether the trial judge failed to adequately caution the jury as to the danger in acting on the evidence of the accomplice and the jail house informant.

PROCEDURAL HISTORY

October 29, 1996 Ontario Court of Justice (General Division) (Thomas J.)	Conviction: second degree murder
June 29, 1999 Court of Appeal for Ontario (McMurtry C.J.O., Finlayson and Krever JJ.A.)	Appeal against conviction dismissed
December 8, 1999 Supreme Court of Canada	Application for leave to appeal and motion for an extension of time filed

27564 **C.L.L. v. HER MAJESTY THE QUEEN** (Ont.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Canadian Charter - Criminal - Criminal Law - Retrospective applications of law - Review of discharge at preliminary inquiry - Whether the Court of Appeal erred by reason of a retrospective application of criminal law - Whether applying a 1998 interpretation of a rape provision of the *Criminal Code* to conduct that occurred in 1980 contravened s. 11(g) of the *Charter* - Standard of review of discharge of an accused person at a preliminary inquiry - Whether accused should be committed for trial on a possible view of the law regarding the constituent elements of an offence.

PROCEDURAL HISTORY

April 23, 1998 Ontario Court (Provincial Division) (Ebbs J.)	Committal to trial on two counts, neither based on an incident of sexual intercourse
December 4, 1998 Ontario Court (General Division) (Leitch J.)	Remitted for committal to trial on charge of rape based on sexual intercourse
August 17, 1999 Court of Appeal for Ontario (Osborne C.J., Catzman J., Farley J. <i>ad hoc</i>)	Appeal dismissed
October 27, 1999 Supreme Court of Canada	Application for leave to appeal filed

27567 **RAVI DEVGAN v. HER MAJESTY THE QUEEN** (Ont.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

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

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

NATURE OF THE CASE

Criminal Law - Sentencing - Compensation order - Whether the Court of Appeal erred in law in failing to set aside the compensation order for \$128,000 when there was no basis in fact or law for awarding same - Whether the Court of Appeal erred in law in applying s. 725(1) of the *Criminal Code*, R.S.C., 1985, c. C-46 [now s. 738, as amended], providing for compensation orders - Whether the Court of Appeal erred in law in awarding a compensation order when a civil action against the Applicant prior to the criminal proceedings taking place had already been settled and the issue of compensation was therefore *res judicata* - Whether the Court of Appeal erred in law in permitting the processes of the criminal court to be employed for the purpose of seeking restitution, an issue which was civil in substance and nature - Whether the Court of Appeal erred in law in effectively using a compensation order to interfere in a right of civil recourse and in wrongly exercising its discretion to so do?

PROCEDURAL HISTORY

January 26, 1996 Ontario Court of Justice (General Division) (German J.)	Conviction: fraud over \$1,000.00 and making a false statement
May 17, 1996 Ontario Court of Justice (General Division) (German J.)	Sentence: 90 days imprisonment to be served intermittently; order that Applicant abide by two compensation orders for \$73,534.83 and \$128,900
May 26, 1999 Court of Appeal for Ontario (Labrosse, Charron and Feldman JJ.A.)	Appeal from sentence allowed: compensation order for \$73,534.83 set aside and compensation order for \$128,000 reduced to \$100,000

October 29, 1999
Supreme Court of Canada

Application for leave to appeal and extension of time filed

27556 **T.V. v. HER MAJESTY THE QUEEN** (Ont.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

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

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

NATURE OF THE CASE

Criminal law - Evidence - Whether trial judge erred by failing to give a special warning to the jury regarding the testimony of the child complainant? - Whether trial judge erred by allowing the videotaped statement of the complainant into evidence when it contained references to bad character of the accused? - Whether the trial judge erred by failing to point out the difficulty the accused was apparently under in hearing and understanding the questions put to him, both at trial and in his statement to police?

PROCEDURAL HISTORY

September 20, 1995
Ontario Court (General Division)
(Bellegham J.)

Conviction: Sexual assault and touching for sexual purpose

June 9, 1998
Court of Appeal for Ontario
(Finlayson, Abella and Moldaver JJ.A.)

Appeal dismissed

October 21, 1999
Supreme Court of Canada

Application for leave to appeal filed

27511 **BRIAN WILLIAM KILOH v. HER MAJESTY THE QUEEN** (F.C.A.) (B.C.)

CORAM: The Chief Justice, 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

Taxation - Reassessment - Motion for extension of time to appeal Tax Court of Canada decision dismissed - Whether Federal Court of Appeal erred in dismissing the Applicant's motion for extension of time to file

PROCEDURAL HISTORY

April 27, 1999
Tax Court of Canada
(Mogan J.)

Appeal from the assessment under the *Income Tax Act* for the 1994 taxation year dismissed

July 22, 1999
Federal Court of Appeal
(Robertson J.A.)

Application for an extension of time to file application for
judicial review dismissed

September 27, 1999
Supreme Court of Canada

Application for leave to appeal filed

27359 **KNUT VIK v. COLLEGE OF PHYSICIANS AND SURGEONS OF THE PROVINCE OF
ALBERTA** (Alta.)

CORAM: The Chief Justice, 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

Labour law - Law of professions - Physicians and surgeons - Allegation of sexual assault against Applicant by patient - Whether the Court of Appeal erred in finding that the standard of proof to be applied by the Respondent was proof on a balance of probabilities - Whether the Court of Appeal erred in finding that the role of the Council of the Respondent was merely to search for palpable and overriding error or fact on the part of the Investigating Committee - Whether the verdict of the Council was unreasonable and unsupported by the evidence.

PROCEDURAL HISTORY

April 16, 1999
Court of Appeal of Alberta
(Hetherington, O'Leary, Berger
[dissenting] JJ.A.)

Applicants' appeal from an order by the Respondent finding
the Applicant guilty of unbecoming conduct and imposing a
penalty dismissed

June 15, 1999
Supreme Court of Canada

Application for leave to appeal filed

27273 **FLEXI-COIL LTD. v. BOURGAULT INDUSTRIES LTD.** (F.C.A.) (Sask.)

CORAM: The Chief Justice, 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

Property law - Patents - Proper method of patent construction - Whether a person seeking a patent from the Canadian Patent Office has a duty to be candid in revealing all information known to it to be pertinent to the grant of a patent.

PROCEDURAL HISTORY

February 27, 1998

Respondent's patent declared valid and infringed

Federal Court of Canada, Trial Division
(Campbell J.)

March 3, 1999
Federal Court of Appeal
(Décary, Linden and Robertson JJ.A.)

Appeal dismissed

May 3, 1999
Supreme Court of Canada

Application for leave to appeal filed

27425 **KEYVAN NOURHAGHIGHI v. THE TORONTO HOSPITAL, THE LAW SOCIETY OF UPPER CANADA, ANDREWS S. TYRRELL, ROSANNE M. GUILETTI, GARY S. STEINBERG, ANDREW M. CZERNIK AND ERNEST G. TOOMATH** (Ont.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Procedural law - Applicant bringing several actions raising of condominium law issues and making allegations of police torture, conspiracy by bench and bar, and obstruction of justice - Applicant found to be vexatious litigant - Whether Court of Appeal erred in dismissing appeal from order declaring Applicant to be a vexatious litigant.

PROCEDURAL HISTORY

February 6, 1997
Ontario Court of Justice (General Division)
(Wilkins J.)

Respondents' application for an order pursuant to section 140 of the *Courts of Justice Act* granted; Applicant's counter-application dismissed

May 7, 1999
Court of Appeal for Ontario
(Krever, Moldaver and Feldman JJ.A.)

Appeal dismissed

August 4, 1999
Supreme Court of Canada

Application for leave to appeal filed

27459 **ROSHAN ALI TEJANI - v. - HER MAJESTY THE QUEEN** (Crim.)(Ont.)

CORAM: Gonthier, Binnie and Arbour JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal Law - Offences - Attempt to launder proceeds of crime - Whether the phrase "intent to convert" in s. 19.2 of the *Narcotic Control Act*, R.S.C. 1985, c. N-1, is satisfied by a simple intent to exchange one currency into another or requires an intent to disguise - Whether the Applicant's conviction was not unreasonable - Whether the trial judge could and did find requisite knowledge that funds were proceeds of a specified narcotics offence committed in Canada - Whether the trial judge could and did find that an element of knowledge was made out based upon wilful blindness - Whether the trial judge proceeded on an objective basis as opposed to a requisite subjective basis with respect to wilful blindness - Whether the Applicant progressed beyond mere preparation and committed the *actus reus* of attempting to launder money.

PROCEDURAL HISTORY

December 11, 1997
Ontario Court of Justice (General Division)
(Grossi J.)

Conviction: Attempt to launder proceeds of crime
Sentence: Two years imprisonment and \$20,000 fine

August 26, 1999
Court of Appeal for Ontario
(Osborne A.C.J. and Laskin and Borins JJ.A.)

Appeal from conviction dismissed; Appeal from sentence allowed in part, reduced to two years less a day in community and \$20,000 fine

October 25, 1999
Supreme Court of Canada

Application for leave to appeal filed

27547 **IAN VINCENT GOLDEN - v. - HER MAJESTY THE QUEEN** (Crim.)(Ont.)

CORAM: Gonthier, Binnie and Arbour JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Whether s. 8 of the *Charter* mandates a warrant as a prerequisite for a complete strip search conducted incident to an individual's arrest - Whether the minimum standards for a reasonably conducted strip search under s. 8 of the *Charter* were met.

PROCEDURAL HISTORY

January 28, 1998
Ontario Court of Justice (General Division) (McNeely J.)

Conviction: guilty of possession of a narcotic for the purpose of trafficking

April 16, 1998
Ontario Court of Justice (General Division)
(McNeely J.)

Application for violation of section 8 of the *Charter* dismissed

September 23, 1999
Court of Appeal for Ontario
(Osborne, Doherty and Charron JJ.A.)

Appeal against conviction and sentence dismissed

October 15, 1999
Supreme Court of Canada

Application for leave to appeal filed

27543 **ULYBEL ENTERPRISES LIMITED - v. - HER MAJESTY THE QUEEN - and between - HER MAJESTY THE QUEEN - v. - ULYBEL ENTERPRISES LIMITED** (Crim.)(Nfld.)

CORAM: Gonthier, Binnie and Arbour JJ.

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

La demande d'autorisation d'appel est rejetée et la demande d'autorisation d'appel incident est accordée.

NATURE OF THE CASE

Criminal law - Seizure - Defence - Evidence - Maritime law - Fisheries - Procedural law - Evidence - Disclosure - Courts - Jurisdiction - Statutes - Interpretation - Seizure and sale of ship Forfeiture of sales proceeds - Nationality of Ship - North Atlantic Fisheries Convention - Permitting use of a fishing vessel to fish in North Atlantic Fisheries Organization's Convention area without a vessel registration card or a license - Determining nationality of ship - Whether principles of international law apply as part of Canadian law in determining nationality of a ship - Whether Canadian registration of a ship automatically ends once ship acquires foreign registration, flag, certificates, operator, master, and crew - Whether the Superintendent of Ships' Registry has a duty to delete a ship from the Canadian Registry once he learns that the vessel is sailing as a foreign fishing vessel - Whether the Crown is entitled to renege on a promise of disclosure - Whether an accused ship owner is entitled to see documents concerning Canadian efforts to have the foreign registration closed - Whether disclosure properly withheld - Whether Minister's personal consent is necessary to overturn prohibition against registration of foreign built vessels in the *Canada Shipping Act* - Whether owner who gives a Bare Boat Charter of its fishing vessel is responsible for the actions of the Charter - Whether a reasonable and honest belief defence in *Fisheries Act*, R.S.C., 1985, c. F-14 is the subjective belief of the accused - Whether requiring continued detention by the Crown of a thing seized for forfeiture conflicts with other provisions of *Fisheries Act* - Jurisdiction of Federal Court of Canada.

PROCEDURAL HISTORY

December 4, 1999 Supreme Court of Newfoundland, Trial Division (Russell J.)	Motion for disclosure dismissed
May 21, 1997 Supreme Court of Newfoundland, Trial Division (Russell J.)	Conviction: four counts of permitting use of a fishing vessel to fish without a registration card or a licence in an NAFO convention area
July 2, 1997 Supreme Court of Newfoundland, Trial Division (Russell J.)	Sentence: fines of \$120,000, forfeiture of proceeds of sale of cargo and \$50,000 of proceeds of sale of fishing vessel
August 17, 1999 Supreme Court of Newfoundland, Court of Appeal (Gushue, Cameron and Green JJ.A.)	Appeal from convictions dismissed; Appeal from sentence allowed in part, order of forfeiture set aside; Cross-appeal from sentence dismissed
October 13, 1999 Supreme Court of Canada	Application for leave to appeal filed by Applicant
October 18, 1999 Supreme Court of Canada	Application for leave to cross-appeal filed by Respondent

27444 **HEMCHAND RAMLALL, B.A., M.D., D.O.H.S. - v. - THE ONTARIO INTERNATIONAL MEDICAL GRADUATE PROGRAM and THE COUNCIL OF ONTARIO FACULTIES OF MEDICINE** (Ont.)

CORAM: Gonthier, Binnie and Arbour 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

Canadian Charter of Rights and Freedoms - Civil - Equality rights - Administrative law - Judicial review - Admissions examinations to professional academic program for students from non-accredited schools abroad - Admissions examinations restricted to four attempts - Whether additional requirements for students of non-accredited schools abroad breaching equality provisions of Charter - If so, whether s. 1 applicable - Whether standard of review "correctness" and not "manifest unfairness" as found below - Whether courts below erred in law - Whether program breached rules of procedural fairness - Whether Committee had jurisdiction to effect four-year restriction - Whether implementation of four-year restriction fettering discretion of program - Whether program should be considered as agency of government rather an university program.

PROCEDURAL HISTORY

November 24, 1998
Ontario Court (Divisional Court)
(Flinn, Taliano and Ferguson JJ.)

Applicant's application for judicial review of the decisions of the Ontario International Medical Graduate Program dismissed

May 26, 1999
Court of Appeal for Ontario
(Osborne, Catzman and O'Connor JJ.A.)

Applicant's motion for leave to appeal dismissed

August 26, 1999
Supreme Court of Canada

Application for leave to appeal filed

27481 **THE WATERLOO COUNTY BOARD OF EDUCATION - v. - GREGORY KENNEDY, CECIL KENNEDY, SHIRLEY KENNEDY, RHONDA NOGUEIRA and HEATHER DOWLING** (Ont.)

CORAM: Gonthier, Binnie and Arbour JJ.

The applications for leave to appeal and cross-appeal are dismissed with costs.

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

NATURE OF THE CASE

Torts - Negligence - Occupiers' liability - Whether government agencies are exempted from tortious liability when they make policy as opposed to operational decisions if they are subject to a contemporaneous statutory duty - Whether the Court of Appeal erred in interfering with the finding of a trial judge with respect to the apportionment of liability in negligence -

PROCEDURAL HISTORY

October 25, 1996

Action by Respondents dismissed

Ontario Court of Justice (General Division)
(Mossop J.)

June 21, 1999
Court of Appeal for Ontario
(Morden A.C.J.O., Catzman and Feldman JJ.A.)

Appeal allowed: judgment below set aside and judgment granted in favour of the Respondents

September 15, 1999
Supreme Court of Canada

Applications for leave to appeal and cross-appeal filed

27630 **AMANDA MARIE LORD, NICOLA JOAN LORD, CAMERON JAMES WESTBURY, minors by their Litigation Guardian ROLF PATRICK LEIGH LORD, ROLF PATRICK LEIGH LORD personally, KATHLEEN JEAN LORD, GRETA JOAN TRAVIS, SUSAN PATRICIA MACKAY, GINA MARIE LORD and LISA WILLIAMS - v. - THE MARITIME LIFE ASSURANCE COMPANY** (Ont.)

CORAM: Gonthier, Binnie and Arbour JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Family Law - Statutes - Interpretation - Damages - Whether a defendant who intentionally causes the death of a person is potentially liable for punitive damages under section 61 of the *Family Law Act*, R.S.O. 1990, c. F-3 - Whether Ontario's *Family Law Act* and comparable legislation in the other provinces contemplate damages of a non-compensatory nature, specifically, aggravated damages - Whether a court is precluded from expanding the remedies available to a plaintiff because the common law bar to recovery has been partially removed by legislation? - If not, should aggravated and punitive damages, as a matter of public policy, be made available in cases of intentional tort causing death?

PROCEDURAL HISTORY

June 17, 1998
Ontario Court of Justice (General Division)
(Granger J.)

Motion by the Respondent Maritime Life to strike out Applicants' claim for punitive, exemplary and aggravated damages granted

October 6, 1999
Court of Appeal for Ontario
(Doherty, Austin and Sharpe JJ.A.)

Appeal dismissed

December 6, 1999
Supreme Court of Canada

Application for leave to appeal filed

27662 **ADITYA NARAYAN VARMA - v. - CANADA POST CORPORATION** (F.C.A.)

CORAM: Gonthier, Binnie and Arbour 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 - Judgments and orders - Directions concerning procedure - Interlocutory order made extending time to serve and file appearance - Application made for directions - Judge rendering directions finding Applicant had right to compel completion of undertakings but failed to do so in time permitted - Avenue of appeal from decision.

PROCEDURAL HISTORY

October 13, 1999 Federal Court of Appeal (Rothstein J.A.)	Motion of the Respondent for extension of time to serve and file notice of appearance granted
November 4, 1999 Federal Court of Appeal (Strayer J.A.)	Decision on motion for directions
December 8, 1999 Supreme Court of Canada	Application for leave to appeal filed

27260 **BRUCE AGRA FOODS INC. - v. - TRILWOOD INVESTMENTS LIMITED and WENDCO INC.**
(Ont.)

CORAM: Gonthier, Binnie and Arbour 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 - Company law - Deposits - Forfeiture - Sale of shares - Performance or breach - Relief from forfeiture - Deposit v. purchase money - Under terms of share purchase agreement purchaser agreed to pay \$5,500,000 as "initial installment" described in agreement as compensation to vendor if transaction did not close for lost opportunity and expenses incurred in connection with transaction - Purchaser breached agreement by refusing to close - Whether "initial installment" constitutes deposit and is subject to forfeit - Whether material consent required under share agreement was provided.

PROCEDURAL HISTORY

February 10, 1998 Ontario Court of Justice (General Division) (Somers J.)	Action for a declaration that the Respondents were entitled to retain a deposit paid by the Applicant as an initial instalment under the share purchase agreement allowed; Applicant's counterclaim dismissed
February 19, 1999 Court of Appeal for Ontario (Finlayson, Catzman, and Laskin JJ.A.)	Appeal dismissed
April 20, 1999 Supreme Court of Canada	Application for leave to appeal filed

27335 **GEORGES NOURCY - c. - LA COMPAGNIE D'ASSURANCE-VIE TRANSAMERICA DU CANADA** (Qué.)

CORAM: Les juges Gonthier, Binnie et Arbour

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

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Code civil - Interprétation - Droit commercial - Assurance - La Cour d'appel a-t-elle erré en droit en concluant que l'assurée avait fait de fausses déclarations ou réticences? - La Cour d'appel a-t-elle erré en droit en ne tenant pas compte du fait non contesté que les réponses à la question 11- A étaient, à leur face même, incomplètes et même inexistantes? - La Cour d'appel du Québec a-t-elle erré en droit en imposant à l'assurée un fardeau indu constitué par l'obligation de dévoiler toutes les maladies et/ou désordres physiques (ou psychiques) dont elle pouvait être atteinte, contrairement aux articles 2485 et suivants C.c.B.-C.? - La Cour d'appel du Québec a-t-elle erré en droit en ne tenant pas compte du fait que les résultats des examens, de ce que l'assurée pouvait en connaître à l'époque, amenaient l'une ou l'autre des possibilités suivantes: condylome (simple infection) ou dysplasie (cellules précancéreuses)?

HISTORIQUE PROCÉDURAL

Le 17 novembre 1995
Cour supérieure du Québec
(Landry j.c.s)

Action du demandeur accueillie

Le 8 avril 1999
Cour d'appel du Québec
(Rothman, LeBel et Philippon (*ad hoc*) jj.c.a.)

Appel accueilli

Le 7 juin 1999
Cour suprême du Canada

Demande d'autorisation d'appel déposée

27385 **JACK JOSEPH LOCKE - v. - THE CITY OF CALGARY** (Alta.)

CORAM: Gonthier, Binnie and Arbour 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 of Rights and Freedoms - Procedural law - Costs - Security for costs - Whether the impediment of requiring security for costs is contrary to the *Charter* - Whether a municipal by-law providing for fluoridation of the communal water supply was contrary to section 7 of the *Charter* - Whether the by-law should be quashed or declared invalid for illegality - Whether there was a proper delegation of provincial authority to municipal authority.

PROCEDURAL HISTORY

November 12, 1993 Court of Queen's Bench of Alberta (Montgomery J.C.Q.B.A.)	Applicant's action dismissed
October 25, 1994 Court of Appeal of Alberta (Hetherington J.A.)	Respondent's application for security for costs granted
March 3, 1999 Court of Appeal of Alberta (Sulatycky J.A.)	Applicant's motion to vary the security for costs dismissed; costs ordered to be paid within 60 days
May 6, 1999 Court of Appeal of Alberta (Sulatycky J.A.)	Applicant's motion to extend the time to pay the security for costs denied
July 2, 1999 Supreme Court of Canada	Application for leave to appeal filed

27256 **DR. EARL SHUMAN - v. - THE ONTARIO NEW HOME WARRANTY PROGRAM** (Ont.)

CORAM: Gonthier, Binnie and Arbour 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

Property law - Real property - Remedies - Ontario New Home Warranty Program - Whether a home owner was entitled to compensation under the *Ontario New Home Warranties Plan Act*, R.S.O. 1990, c. O.31 for defects affecting the home - Whether the builder who constructed a substantial part of the house was a "builder" under the *Act* - Whether 29 alleged defects were covered by the first-year warranty - Whether the heating system defect was a "major structural defect".

PROCEDURAL HISTORY

May 21, 1998 Ontario Court (General Division) Divisional Court (Farley, Karam, and Sedgwick JJ.A.)	Appeal from a decision of the Commercial Registration Appeal Tribunal dismissed
August 20, 1998 Court of Appeal for Ontario (Carthy, Doherty, and Charron JJ.A.)	Motion for leave to appeal dismissed
April 16, 1999 Supreme Court of Canada	Application for leave to appeal and an extension of time to file filed

27310 **VENTUREDYNE LTD. and CARNES COMPANY INC. - v. - GENERAL REFRACTORIES CO.
OF CANADA LTD. and GENERAL REFRACTORIES COMPANY** (Ont.)

CORAM: Gonthier, Binnie and Arbour 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 - Actions - Summary judgment - Chambers judge granting summary judgment dismissing Applicants' counterclaim in action for breach of contract - Whether appropriate approach was taken in determining motion for summary judgment.

PROCEDURAL HISTORY

June 10, 1998 Ontario Court (General Division) (Corbett J.)	Summary judgment granted dismissing the Applicants' counterclaim
March 16, 1999 Court of Appeal for Ontario (Morden A.C.J.O. and Osborne and Moldaver JJ.A.)	Appeal dismissed
May 17, 1999 Supreme Court of Canada	Application for leave to appeal filed

27293 **VICTOR RUSSELL WALTERS - v. - NORTHLAND BANK (IN LIQUIDATION)** (B.C.)

CORAM: Gonthier, Binnie and Arbour 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 - Creditor and debtor - Whether release of one joint and several debtor releases co-debtors absent express reservation of rights

PROCEDURAL HISTORY

January 8, 1998 Supreme Court of British Columbia (Macaulay J.)	Applicant ordered to pay \$1,026,582.77 to Respondent
March 12, 1999 Court of Appeal for British Columbia (Esson, Cumming and Hall JJ.A.)	Appeal dismissed
May 27, 1999 Supreme Court of Canada	Application for leave to appeal filed

27315 **CORPORATION OF THE CITY OF KELOWNA - v. - THE LABOUR RELATIONS BOARD OF BRITISH COLUMBIA and CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 338** (B.C.)

CORAM: Gonthier, Binnie and Arbour JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Labour law - Arbitration - Collective agreement - Administrative law - Judicial review - What decision is properly under review by an appellate court on an appeal from a judicial review of an administrative tribunal's decision, and what standard of review applies to that decision - Issues of procedural fairness and natural justice arise with respect to the conduct of administrative hearings - Whether the Board had the status to bring an appeal and make submissions on whether or not it acted in accordance with the principles of natural justice.

PROCEDURAL HISTORY

February 14, 1996
(Glasner, Q.C., Arbitrator)

Grievance upheld

July 29, 1996
Labour Relations Board
(Brown, Mullin, Young, Vice-Chairs)

Award overturned and remitted back to the arbitrator

December 27, 1996
Labour Relations Board
(Burke, Vice-Chair)

Leave for reconsideration denied

January 20, 1998
Supreme Court of British Columbia
(Melnick J.)

Applicant's application for judicial review of a decision of the Labour Relations Board allowed and matter referred to a new arbitrator

March 25, 1999
Court of Appeal for British Columbia
(Southin, Rowles, Prowse JJ.A.)

Appeal allowed

May 25, 1999
Supreme Court of Canada

Application for leave to appeal filed

13.3.2000

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

Buck Consultants Limited

v. (27707)

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

GRANTED / ACCORDÉE Time extended to March 15, 2000.

15.3.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the book of authorities of the intervener EGALE Canada Inc.

Requête en prorogation du délai imparti pour signifier et déposer le recueil de jurisprudence et de doctrine de l'intervenante EGALE Canada Inc.

Little Sisters Book and Art Emporium, et al.

v. (26858)

Minister of Justice, et al. (B.C.)

GRANTED / ACCORDÉE Time extended to February 25, 2000.

16.3.2000

Before / Devant: LE JUGE EN CHEF McLACHLIN

Requête pour ajourner l'audition de l'appel

Motion to adjourn the hearing of the appeal

Sa Majesté la Reine

c. (27050)

Marie-Suzanne Caouette (Crim.)(Qué.)

GRANTED / ACCORDÉE

La demande est accordée et l'appel sera entendu au cours des deux premières semaines de la session d'automne 2000.

16.3.2000

Before / Devant: BINNIE 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

Firm of Kirkland, Murphy & Ain

v. (27763)

John R. Wernikowski (Ont.)

GRANTED / ACCORDÉE Time extended to February 16, 2000.

17.3.2000

Before / Devant: MAJOR J.

Motion to extend the time in which to serve and file the appellant's record and book of authorities

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

J.C.

v. (27109)

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

GRANTED / ACCORDÉE Time extended to February 29, 2000 *nunc pro tunc*.

17.3.2000

Before / Devant: THE REGISTRAR

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

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

BY/PAR: Attorney General of Saskatchewan,

IN/DANS: The Public School Boards' Association of Alberta, et al.

v. (26701)

The Attorney General of Alberta, et al. (Alta.)

GRANTED / ACCORDÉE Time extended to March 13, 2000.

17.3.2000

Before / Devant: THE REGISTRAR

**Motion to extend the time in which serve and file the
intervener' factum and book of authorities**

**Requête en prorogation du délai imparti pour
signifier et déposer le mémoire et le recueil de
jurisprudence et de doctrine de l'intervenant**

BY/PAR: Attorney General of New Brunswick

IN/DANS: The Public School Boards'
Association of Alberta, et al.

v. (26701)

The Attorney General of Alberta, et
al. (Alta.)

GRANTED / ACCORDÉE Time extended to March 10, 2000 to serve and file the factum and to March 14, 2000 for its book of authorities.

**NOTICE OF APPEAL FILED SINCE
LAST ISSUE**

**AVIS D'APPEL DÉPOSÉS DEPUIS LA
DERNIÈRE PARUTION**

14.3.2000

Her Majesty the Queen

v. (27800)

Lorie Ferguson (Ont.)

AS OF RIGHT

21.3.2000

The General Manager, Liquor Control

v. (27371)

Ocean Port Hotel Limited (B.C.)

**NOTICE OF DISCONTINUANCE
FILED SINCE LAST ISSUE**

**AVIS DE DÉSISTEMENT DÉPOSÉS
DEPUIS LA DERNIÈRE PARUTION**

10.3.2000

Olive Annie Stanwick et al.

v. (27366)

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

(leave)

20.3.2000

Mole Contruction Inc.

c. (27643)

Compagnie d'Assurance Canadian Surety (Qué.)

(demande d'autorisation)

**APPEALS HEARD SINCE LAST ISSUE
AND DISPOSITION**

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

16.3.2000

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

Little Sisters Book and Art Emporium, et al.

v. (26858)

Minister of Justice, et al. (B.C.)

Joseph J. Arvay, Q.C. and Irene C. Faulkner, for the appellants.

Jill Copeland, for the intervener Pen Canada.

Frank Addario and Ethan Poskanzer, for the intervener Canadian Conference of the Arts Pen Canada.

Patricia D.S. Jackson and Tycho M.J. Manson, for the intervener Canadian Civil Liberties Association.

Karen Busby and Claire Klassen, for the intervener Women's Legal Education and Action Fund (LEAF).

Cynthia Petersen, for the intervener EGALE.

R. Douglas Elliott and Patricia A. LeFebour, for the intervener Canadian Aids Society.

Judith Bowers, Q.C., Brian J. Saunders and Daniel Kiselbach, for the respondents Minister of Justice, et al.

George H. Copley, Q.C. and Jeffrey M. Leonen, for the respondent Attorney General of British Columbia.

Christine Bartlett-Hughes and Robert E. Houston, Q.C., for the intervener Attorney General for Ontario.

Janine Benedet, for the intervener Equality Now.

RESERVED / EN DÉLIBÉRÉ

Motion to extend the time in which to file the factum of the intervener the Attorney General for Ontario granted and oral submission refused. /

Requête en prorogation du délai imparti pour produire le mémoire de l'intervenant le Procureur général de l'Ontario est accordée et autorisation de plaider refusée.

Nature of the case:

Charter of Rights and Freedoms - Civil rights - Administrative Law - Whether ss. 58 and 71 of the *Customs Act*, R.S.C. 1985, c. 1 (2nd Supp.), and s. 114 and Code 9956(a) of Schedule VII of the *Customs Tariff*, R.S.C. 1985, c. 41 (3rd Supp.) (now s. 136(1) and tariff item 9899.00.00 of the List of Tariff Provisions set out in the schedule to the *Customs Tariff*, S.C. 1997, c. 36), in whole or in part, insofar as they authorize customs officials to detain and prohibit material deemed to be obscene, or in their application to either textual or gay and lesbian material or both, infringe s. 2(b) and/or s. 15(1) of the *Canadian Charter of Rights and Freedoms* - If so, are these infringements justified under s. 1.

Nature de la cause:

Charte canadienne des droits et libertés - Libertés publiques - Droit administratif - Les art. 58 et 71 de la *Loi sur les douanes*, L.R.C. (1985), ch. 1 (2^e suppl.), et l'art. 114 et le code 9956(a) de l'annexe VII du *Tarif des douanes*, L.R.C. (1985), ch. 41 (3^e suppl.) (maintenant l'art. 136(1) et le numéro tarifaire 9899.00.00 de la Liste des dispositions tarifaires contenue dans l'annexe au *Tarif des douanes*, L.C. 1997, ch. 36), dans la mesure où ils autorisent les agents des douanes à retenir et prohiber du matériel réputé obscène, ou dans leur application soit à du matériel imprimé soit à du matériel homosexuel, ou au deux, violent-ils, en totalité ou en partie, l'art. 2b) ou l'art. 15(1), ou les deux, de la *Charte canadienne des droits et libertés*? - Dans l'affirmative, ces violations peuvent-elles être justifiées en vertu de l'article premier?

20.3.2000

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

Advance Cutting & Coring Ltd., et al.

v. (26664)

Her Majesty the Queen (Que.)

Julius H. Grey, Elizabeth Goodwin and Vincent Basile, for the appellant.

Peter A. Gall, Andrea L. Zwack and Corrado De Stefano, for the intervener Canadian Coalition of Open Shop Contracting Associations.

Jean-François Jobin et Benoit Belleau, pour la mise en cause Procureure générale du Québec.

Jean Ménard, pour l'intervenante Commission de la Construction du Québec.

Robert Toupin et Edward Kravitz, pour les intervenants Centrale des syndicats démocratiques, et al.

Robert Laurin et France Colette, pour l'intervenante Fédération des travailleurs du Québec.

Harold F. Caley, for the intervener Canadian Office of the Building and Construction Trades Department, AFL-CIO.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Canadian Charter of Rights and Freedoms - Labour law - Labour relations - Statutes - Interpretation -

Construction industry - Obligation to belong to an association of employees - Freedom of non-association - Sections 28-40, 85.5 85.6, 119.1(1) and 120 of *an Act respecting labour relations, vocational training and manpower management in the construction industry*, R.S.Q., c. R-20, as well as section 23 of the *Regulation respecting the election of a representative association by the employees of the construction industry* violate section 2(d) of the *Canadian Charter* - Challenge dismissed at the Court of Quebec and the Superior Court - Appellant's motion for leave to appeal dismissed by the Court of Appeal.

Nature de la cause:

Charte canadienne des droits et libertés - Droit du travail - Relations de travail - Législation - Interprétation - Industrie de la construction - Obligation d'appartenir à une association d'employés - Liberté de non-association - Les articles 28-40, 85.5, 85.6, 119.1(1) et 120 de la *Loi sur les relations de travail, la formation professionnelle et la gestion de la main-d'oeuvre dans l'industrie de la construction*, L.R.Q., chap. R- 20, de même que l'article 23 du *Règlement sur le choix d'une association représentative par les salariés de l'industrie de la construction*, portent-ils atteinte à l'alinéa 2d) de la *Charte canadienne* - Contestation rejetée en Cour du Québec et en Cour supérieure - Requête du demandeur pour permission d'appel rejetée par la Cour d'appel.

21.3.2000 & 22.3.2000

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

**The Public School Boards' Association of Alberta,
The Board of Trustees of the Edmonton School
District No. 7 and Cathryn Staring Parrish**

v. (26701)

**The Attorney General of Alberta, the Government of
Alberta and the Minister of Education**

and between

**The Public School Boards' Association of Alberta,
The Board of Trustees of Calgary Board of
Education No. 19 and Margaret Ward Lounds**

v. (26701)

**Alberta Catholic School Trustees' Association, Board
of Trustees of Lethbridge Roman Catholic Separate
School District No. 9, Dwayne Berlando, Her Majesty
the Queen in Right of Alberta and the Minister of
Education (Alta.)**

Eric P. Groody and David H. de Vlieger, for the appellants The Board of Trustees of Calgary Board of Education No. 19, et al.

Dale Gibson, Ritu Khullar and Rang J. Jeerakathil, for the appellants Public School Boards Assoc. of Alberta, et al.

Michael A. Hines, for the intervener Ontario Public School Boards' Assoc.

LaVonne R. Beriault, for the intervener Saskatchewan School Trustees Assoc.

Judith Anderson and Katherine Arnold, for the intervener British Columbia School Trustees Assoc.

Kevin P. Feehan and James E. Redmond, Q.C., for the respondents Alberta Catholic School Trustees' Assoc., et al.

John R. Beckman, Q.C. and L.J. Dick Batten, for the interveners Catholic Section of the Saskatchewan School Trustees Assoc. et al.

Paul J.J. Cavalluzzo and Fay C. Faraday, for the intervener Ontario English Catholic Teachers' Assoc.

Peter D. Lauwers, for the intervener Ontario Catholic School Trustees' Assoc.

Robert C. Maybank, Margaret Unsworth and Roderick Wiltshire, for the respondents Attorney General of Alberta, et al.

Robert E. Charney and Janet E. Minor, for the intervener Attorney General for Ontario.

Monique Rousseau, pour l'intervenante procureure générale du Québec. (Written submission only)

Gabriel Bourgeois, for the intervener the Attorney General of New Brunswick. (Written submission only)

Eugene B. Szach and Darrin R. Davis, for the intervener the Attorney General of Manitoba. (Written submission only)

George H. Copley, Q.C., for the intervener the Attorney General of British Columbia. (Written submission only)

Thomson Irvine, for the intervener the Attorney General of Saskatchewan.

Robert G. Richards, Q.C. and Debra G. Burnett, for the interveners Boards of Education of Regina School Division No. 4, et al.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Constitutional Law - Schools - Whether the Constitution of Canada impliedly or by convention guarantees the reasonable autonomy of school boards - Whether the *School Act*, S.A. 1988, c. S-3.1, as amended, violates the Constitution of Canada - Whether public schools have been denied a right enjoyed by separate schools to opt out of a provincial system of school funding in violation of a constitutional guarantee of "mirror" equality between public and separate schools - Whether Court of Appeal erred in concluding that s.17(1) of the *Alberta Act* does not provide for "mirror equality" between public and separate school boards - Whether Court of Appeal erred in concluding that the *School Act*, S.A. 1988, c. S-3.1, as amended, is not discriminatory within the meaning of s. 17(2) of the *Alberta Act*.

Nature de la cause:

Droit constitutionnel - Écoles - La constitution du Canada garantit-elle, implicitement ou par convention, l'autonomie raisonnable des conseils scolaires? - La *School Act*, S.A. 1988, ch. S-3.1, et modifications, viole-t-elle la constitution du Canada? - A-t-on nié aux écoles publiques le droit dont bénéficient les écoles séparées de se retirer d'un système provincial de financement scolaire en violation d'une garantie constitutionnelle d'égalité « parallèle » entre les écoles publiques et les écoles séparées? - La Cour d'appel a-t-elle commis une erreur en concluant que l'art. 17(1) de la *Loi sur l'Alberta* ne prévoit pas l'« égalité parallèle » entre les conseils scolaires publics et séparés? - La Cour d'appel a-t-elle commis une erreur en concluant que la *School Act*, S.A. 1988, ch. S-3.1, et modifications, n'est pas discriminatoire au sens de l'art. 17(2) de la *Loi sur l'Alberta*?

23.3.2000

CORAM: Le juge en chef McLachlin et les juges L'Heureux-Dubé, Gonthier, Iacobucci, Bastarache, Binnie et
Arbour.

Sa Majesté la Reine

Henri-Pierre Labrie et Dannie Leblanc, pour l'appelante.

c. (26939)

Pauline Bouchard, pour l'intimé.

Renaud Lévesque (Crim.)(Qué.)

RESERVED / EN DÉLIBÉRÉ

Requête en prorogation de délai pour produire un recueil de jurisprudence et de doctrine additionnel accordée. /
Motion to extend the time in which to file a supplemental book of authorities granted.

Nature of the case:

Nature de la cause:

Criminal law - Legislation - Sentencing - Evidence - Interpretation - Fresh evidence - Whether the Court of Appeal erred, based on a misinterpretation of the case law, in holding that a liberal attitude must be adopted where the admissibility of evidence on sentence appeal is a live issue - Whether the Court of Appeal erred in holding that section 687 of the *Criminal Code* dictates a relaxed and generous application in what were clearly adversarial proceedings regarding the admissibility of critical evidence going to sentence - Whether the Court of Appeal usurped the functions of the National Parole Board by basing its decision on the fresh evidence led by the accused - Application of the principles set out by the Supreme Court in *R. v. Gardiner*, [1982] 2 S.C.R. 368.

Droit criminel - Législation - Détermination de la peine - Preuve - Interprétation - Nouvelle preuve - La Cour d'appel a-t-elle commis une erreur lorsqu'elle a décidé qu'une attitude libérale devait être adoptée là où l'admissibilité d'une preuve en appel sur sentence est litigieuse, se fondant sur une interprétation erronée de la jurisprudence? - La Cour d'appel a-t-elle commis une erreur lorsqu'elle a décidé que le texte de l'article 687 du *Code criminel* dicte une approche souple et généreuse dans ce qui était nettement un débat contradictoire portant sur l'admissibilité d'une preuve déterminante quant à la sentence? - La Cour d'appel s'est-elle indûment substituée à la Commission nationale des libérations conditionnelles en se servant de la preuve nouvelle présentée par l'accusé pour rendre sa décision? - Application des principes énoncés par la Cour suprême dans *R. c. Gardiner*, [1982] 2 R.C.S. 368.

24.3.2000

CORAM: Chief Justice McLachlin and Gonthier, Iacobucci, Major, Bastarache, Binnie and Arbour JJ.

Howard Shulman

v. (26912)

United States of America (Crim.)(Ont.)

and between

Paul Yick Wai Kwok, et al.

v. (26919)

The United States of America, et al. (Crim.)(Ont.)

and between

Harry Cobb and Allen Grossman

v. (27610)

The United States of America (Crim.)(Ont.)

and

James Tsioubris

v. (27774)

The United States of America (Crim.)(Ont.)

Chris N. Buhr and Shayne G. Kert, for the appellants
Shulman and Kwok.

Paul D. Stern, for the appellant Harry Cobb.

James Stribopoulos and Paul Cooper, for the appellant
James Tsioubris.

Brian H. Greenspan, for the appellant Allen Grossman.

David Littlefield and Kevin Wilson, for the respondent.

RESERVED / EN DÉLIBÉRÉ

Nature of the case (# 26912):

Canadian Charter of Rights and Freedoms - Criminal law - Extradition - Whether the Court of Appeal erred in finding that considerations relating to mobility rights under s. 6(1) of the *Charter* are not engaged at the committal stage of extradition proceedings, and are beyond the jurisdiction of the extradition judge - Whether s. 6(1) considerations are only engaged at the time of the decision of the Minister of Justice to surrender the fugitive - Whether the Court of Appeal erred in finding that considerations relating to s. 7 of the *Charter* are not engaged at the committal stage of extradition proceedings and are beyond the jurisdiction of the extradition judge - Whether s. 7 considerations are only engaged at the time of the decision of the Minister of Justice to surrender the fugitive - Whether the Court of Appeal erred in finding that the extradition judge was correct in denying the Appellant's request for additional disclosure relevant to issues of ss. 6 and 7 of the *Charter* - Whether the Court of Appeal erred in finding that the fact that the alleged co-conspirators were convicted but not sentenced at the time that they provided their affidavit material was not a basis for excluding their affidavit evidence from the extradition proceedings.

Nature of the case (# 26919):

Canadian Charter of Rights and Freedoms - Criminal law - Extradition - Evidence - Disclosure - Mobility rights - Whether the Court of Appeal erred in holding that consideration of mobility rights under s. 6(1) of the *Charter* is not engaged at the committal stage of extradition proceedings and is beyond the jurisdiction of the extradition judge - Whether consideration of s. 6(1) is only engaged at the time of the Minister's decision to surrender the fugitive - Whether the Court of Appeal erred in finding that the extradition judge was correct in denying the Appellant's request for additional disclosure - Whether the Court of Appeal erred in finding that the Minister was correct in denying the Appellant's request for additional disclosure.

Nature de la cause (# 26912):

Charte canadienne des droits et libertés - Droit criminel - Extradition - La Cour d'appel a-t-elle commis une erreur en concluant que les considérations relatives à la liberté de circulation et d'établissement reconnue à l'art. 6(1) de la *Charte* ne trouvent pas application au stade d'incarcération de la procédure d'extradition, et ne relèvent pas de la compétence du juge d'extradition? - Les considérations relatives à l'art. 6(1) trouvent-elles application seulement au moment où le ministre de la Justice prend la décision d'extrader un fugitif? - La Cour d'appel a-t-elle commis une erreur en décidant que les considérations relatives à l'art. 7 de la *Charte* ne trouvent pas application au stade d'incarcération de la procédure d'extradition et ne relèvent pas de la compétence du juge d'extradition? - Les considérations relatives à l'art. 7 trouvent-elles application seulement au moment où le ministre de la Justice prend la décision d'extrader un fugitif? - La Cour d'appel a-t-elle commis une erreur en concluant que le juge d'extradition a eu raison de refuser la demande d'un supplément de divulgation pertinent quant aux questions relatives aux art. 6 et 7 de la *Charte*? - La Cour d'appel a-t-elle commis une erreur en décidant que le fait que les personnes accusées de complot avaient été reconnues coupables mais que leur peine n'avait pas été déterminée au moment où elles ont fourni leurs affidavits, n'était pas un motif pour exclure leur preuve par affidavit de la procédure d'extradition?

Nature de la cause (# 26919) :

Charte canadienne des droits et libertés - Droit criminel - Extradition - Preuve - Divulgation - Liberté de circulation et d'établissement - La Cour d'appel a-t-elle commis une erreur en concluant que les considérations relatives à la liberté de circulation et d'établissement reconnue à l'art. 6(1) de la *Charte* ne trouvent pas application au stade d'incarcération de la procédure d'extradition, et ne relèvent pas de la compétence du juge d'extradition? - Les considérations relatives à l'art. 6(1) trouvent-elles seulement application au moment où le ministre prend la décision d'extrader le fugitif? - La Cour d'appel a-t-elle commis une erreur en décidant que le juge d'extradition a eu raison de refuser la demande de l'appelant pour un supplément de divulgation? - La Cour d'appel a-t-elle commis une erreur en décidant que le ministre a eu raison de refuser la demande de l'appelant pour un supplément de divulgation?

Nature of the case: (# 27610 & 27774)

Canadian Charter of Rights and Freedoms - Criminal law - Extradition - Jurisdiction of extradition judge at the committal stage of extradition proceedings - Sections 7 and 24 of the Charter.

Nature de la cause: (# 27610 & 27774)

Charte canadienne des droits et libertés - Droit criminel - Extradition - Compétence du juge d'extradition à l'étape de la décision relative à l'incarcération dans le cadre de procédures d'extradition - Articles 7 et 24 de la Charte.

WEEKLY AGENDA

ORDRE DU JOUR DE LA SEMAINE

The next session of the Supreme Court of Canada commences on April 10, 2000.
La prochaine session de la Cour suprême du Canada débute le 10 avril 2000.

The next bulletin of proceedings will be published on April 7, 2000.
Le prochain bulletin des procédures sera publié le 7 avril 2000.

DEADLINES: APPEALS

The Spring Session of the Supreme Court of Canada will commence April 10, 2000.

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 de printemps de la Cour suprême du Canada commencera le 10 avril 2000.

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.

Veillez 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.

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

Judgments reported in [1999] 3 S.C.R. Part 2

Abouchar v. Ottawa-Carleton French-language School Board -- Public Sector, [1999] 3 S.C.R. 343

Des Champs v. Conseil des écoles séparées catholiques de langue française de Prescott-Russell, [1999] 3 S.C.R. 281

Baker v. Francis, [1999] 3 S.C.R. 250

R. v. Liew, [1999] 3 S.C.R. 227

Wells v. Newfoundland, [1999] 3 S.C.R. 199

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

Jugements publiés dans [1999] 3 R.C.S. Partie 2

Abouchar c. Conseil scolaire de langue française d'Ottawa-Carleton -- Section publique, [1999] 3 R.C.S. 343

Des Champs c. Conseil des écoles séparées catholiques de langue française de Prescott-Russell, [1999] 3 R.C.S. 281

Baker c. Francis, [1999] 3 R.C.S. 250

R. c. Liew, [1999] 3 R.C.S. 227

Wells c. Terre-Neuve, [1999] 3 R.C.S. 199

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 1999 -

OCTOBER - OCTOBRE						
S D	M L	T M	W M	T J	F V	S S
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NOVEMBER - NOVEMBRE						
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- 2000 -

JANUARY - JANVIER						
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FEBRUARY - FÉVRIER						
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APRIL - AVRIL						
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MAY - MAI						
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JUNE - JUIN						
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Sittings of the court:
Séances de la cour:

Motions:
Requêtes:

Holidays:
Jours fériés:

M
H

18 sitting weeks / semaines séances de la cour

77 sitting days / journées séances de la cour

9 motion and conference days / journées requêtes, conférences

4 holidays during sitting / jours fériés durant les sessions