SUPREME COURT OF CANADA

COUR SUPRÊME DU CANADA

BULLETIN OF PROCEEDINGS

BULLETIN DES PROCÉDURES

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APPLICATIONS FOR LEAVE TO APPEAL FILED

Ravi Devgan
Joseph Markin

v. (27567)

Her Majesty the Queen in Right of Ontario (Ont.)
Lucy Cecchetto
A.G. for Ontario

FILING DATE 28.2.2000

Percy Edward Augustine
M. Aloysius Hayes
Noel, Urquhart & Associates

v. (27695)

Her Majesty the Queen (N.B.)
John J. Walsh
A.G. of New Brunswick

FILING DATE 6.3.2000

Bruce Curt Mulligan
Marvin R. Bloos
Beresh Depoe Cunningham

v. (27726)

Her Majesty the Queen (Alta.)
Bart Rosborough
A.G. of Alberta

FILING DATE 6.3.2000

Dragisa Gajic
Dragisa Gajic

v. (27750)

Her Majesty the Queen in the name of Revenue Canada et al. (B.C.)
Donnare Nygard
A.G. of British Columbia

FILING DATE 6.3.2000

DEMANDES D'AUTORISATION D'APPEL DÉPOSÉES

James T. Melville
Michael E. Barrack
McCarthy Tétrault

v. (27754)

NBD Bank, Canada et al. (Ont.)
Thomas J. Corbett
Thompson, Corbett, Webster

FILING DATE 11.2.2000

and

Dofasco Inc.
Jeffrey S. Leon
Fasken Martineau DuMoulin

v. (27754)

NBD Bank, Canada et al. (Ont.)
Thomas J. Corbett
Thompson, Corbett, Webster

FILING DATE 14.2.2000

Sa Majesté la Reine
John Denis Gerols

c. (27759)

Peter Maxwell (Qué.)
Marc Labelle

DATE DE PRODUCTION 11.2.2000

Firm of Kirkland, Murphy & Ain
Timothy D. Ray
Beament Green

v. (27763)

John R. Wernikowski (Ont.)
John R. Wernikowski

FILING DATE 15.2.2000

C.V.M.
James W. Conway
Legal Aid Society of Alberta

v. (27779)

Her Majesty the Queen (Alta.)
Alberta Justice

FILING DATE 24.2.2000

Peter Karamouzos
Ronald Simunovic

v. (27780)

John and Jane Doe et al. (B.C.)
Lawrence A. Kahn
Altman Kahn Zack

FILING DATE 2.3.2000

Her Majesty the Queen
Lori Renée Weitzman
A.G. of Quebec

v. (27788)

Jacques Cinous (Que.)
Marc Nerenberg

FILING DATE 6.3.2000

Alissa Westergard-Thorpe et al.
Joseph J. Arvay, Q.C.
Arvay Finlay

v. (27778)

The Attorney General of Canada et al. (F.C.A.)
I.G. Whitehall, Q.C.
A.G. of Canada

FILING DATE 22.2.2000

Gail Snider
Sidney Green, Q.C.

v. (27783)

Manitoba Association of Registered Nurses (Man.)
David I. Marr
Campbell Marr

FILING DATE 3.3.2000

Kenneth M. Narvey
Kenneth M. Narvey

v. (27785)

The Minister of Citizenship and Immigration et al. (F.C.A.)
Paul Vickery
A.G. of Canada

FILING DATE 6.3.2000

Sonja Van Halteren
Stephen Thom

v. (27786)

Mark Steven Wilhelm (B.C.)
James D. Baker, Q.C.
Baker Newby & Company

FILING DATE 6.3.2000

Panduit Corp. et al.
Bruce W. Stratton
Dimock Stratton Clarizio

v. (27789)

Thomas & Betts, Limited (F.C.A.)
Marek Nitoslawski
Colby, Monet, Demers, Delage & Crevier

FILING DATE 8.3.2000

Manickavasagam Suresh
Barbara Jackman
Jackman, Waldman & Associates

v. (27790)

The Minister of Citizenship & Immigration et al. (F.C.A.)
A.G. of Canada

FILING DATE 7.3.2000

MARCH 13, 2000 / LE 13 MARS 2000

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

Paul MacPherson, George Ewing and John Stuart McKenzie

v. (27184)

ADGA Systems International Inc. (Ont.)

NATURE OF THE CASE

Procedural law - Pre-trial procedure - Summary judgment - Commercial law - Company law - Personal liability of corporate director and employees - Whether the Court of Appeal erred in dismissing motion for summary judgment - Whether individual officers, directors and senior employees of a corporation should be made personally liable in respect of acts done in the course of their duties as such to the corporation and not in their personal capacities, where the acts in question are integral to the core competitive business activities of the corporation and are alleged to cause economic loss to a competitor.

PROCEDURAL HISTORY

April 19, 1995 Ontario Court of Justice (General Division) (Mercier J.)	Applicants' motion for summary judgment dismissed
October 3, 1997 Ontario Court (Divisional Court) (Smith, Chilcott and Greer JJ.)	Applicants' appeal allowed, action dismissed
January 12, 1999 Court of Appeal for Ontario (Carthy, Laskin and Goudge JJ.A.)	Respondent's appeal allowed, Applicants' motion for summary judgment dismissed
March 12, 1999 Supreme Court of Canada	Application for leave to appeal filed

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David Bloom, Arthur Konviser and Gloria Anderson,
Ruth Mallon, Sam Hirsch and Leroy Fevang

v. (27571)

Meditrust Healthcare Inc. (Ont.)

NATURE OF THE CASE

Procedural law - Pre-trial procedure - Motion to strike - Commercial law - Company law - Personal liability of corporate directors, officers and employees - Whether the Court of Appeal applied the correct legal test to determine whether a plea of personal liability against officers, directors or employees of a corporation for conduct undertaken by them in their corporate capacities was sustainable.

PROCEDURAL HISTORY

October 13, 1998 Ontario Court of Justice (General Division) (Molloy J.)	Respondent's claims against the Applicants dismissed without leave to amend and without prejudice to its right to add the Applicants by motion or in response to defence pleadings
September 9, 1999 Court of Appeal for Ontario (Carthy, Labrosse and Feldman JJ.A.)	Appeal allowed in part
November 1, 1999 Supreme Court of Canada	Application for leave to appeal filed by Applicants Bloom, Konviser and Anderson
November 5, 1999 Supreme Court of Canada	Separate applications for leave to appeal filed by the Applicants Mallon, Fevang and Hirsch

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James T. Melville and Dofasco Inc.

v. (27754)

NBD Bank, Canada (Ont.)

NATURE OF THE CASE

Commercial law - Torts - Liability of employee officers for negligent misrepresentation - Statutes - Interpretation - Whether employee officers are personally liable for negligent misrepresentations made to parties who have voluntarily chosen to deal with a limited liability company - Whether the Applicants were acting in the best interests of their corporate employer - Whether policy reasons limit the Applicants' liability - Whether a claim for negligent misrepresentation can succeed where the plaintiff fails to testify that he recalls the statements upon which he is found to have relied - Whether the lower courts imposed a positive duty of disclosure on the Applicants - Whether s. 8 of the *Statute of Frauds*, R.S.O. 1990, c. S.19 applies to a claim of negligent misrepresentation - Whether the corporate employer's arrangement under the *Companies Creditors Arrangement Act*, R.S.C. 1985, c. C-36, affects the Applicants' liability.

PROCEDURAL HISTORY

March 27, 1997 Ontario Court of Justice (General Division) (Crane J.)	Applicants found jointly and severally liable to Respondent in the amount of US$1,984,945.27 for negligent misrepresentation
December 15, 1999 Court of Appeal for Ontario (Krever, Carthy and Rosenberg JJ.A.)	Appeals by Applicants and cross-appeal by Respondent dismissed
February 11, 2000 Supreme Court of Canada	Application for leave to appeal by Applicant Melville filed
February 14, 2000 Supreme Court of Canada	Application for leave to appeal by Applicant Dofasco Inc. filed

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Total Leisure R.V. Manufacturing Ltd.

v. (27357)

Freebird Holdings Ltd. (Man.)

NATURE OF THE CASE

Commercial law - Property law - Creditor and debtor - Real property - Right of redemption - Judgment creditor proceeding to sell property of debtor in accordance with *The Judgments Act*, R.S.M. c. J10 - Judgment debtor having sufficient funds to repay debt only after a master had authorized acceptance of an offer to purchase but before the approval was confirmed by the court - Whether a judgment debtor is pre-empted from redeeming its property once a master of the Court of Queen's Bench has authorized the acceptance of an offer to purchase the property.

PROCEDURAL HISTORY

December 8, 1998 Court of Queen's Bench of Manitoba (Master Ring)	Motion granted approving offer to purchase
December 16, 1998 Court of Queen's Bench of Manitoba (Kennedy J.)	Appeal allowed; order of Master set aside
April 15, 1999 Court of Appeal of Manitoba (Twaddle, Lyon, Monnin JJ.A.)	Appeal allowed; order of Master confirmed
June 14, 1999 Supreme Court of Canada	Application for leave to appeal filed

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**Les Entreprises Ludco Ltée/ Ludco Enterprises Ltd.,
Brian Ludmer, David Ludmer and Cindy Ludmer**

v. (27320)

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

NATURE OF THE CASE

Taxation - Income tax - Income from a business or property - Deductions - Expenses incurred in borrowing money - Interest - Capital gains - Taxpayers borrowing to invest in shares of two foreign companies - Taxpayers paying $6M in interest - Taxpayers realizing a capital gain of $9.2M upon redemption of shares - Whether taxpayers entitled to deduct interest on the funds borrowed to finance their investment pursuant to paragraph 20(1)(*c*)(i) of the *Income Tax Act*, S.C. 1970-71-72, c. 63 (*ITA*).

PROCEDURAL HISTORY

January 5, 1993 Tax Court of Canada (Tremblay J.)	Appeal from the reassessment made under the *ITA* for the specified taxation years dismissed

December 9, 1997 Federal Court of Canada, Trial Division (Lutfy J.)	Appeal dismissed
March 30, 1999 Federal Court of Appeal (Marceau, Desjardins, jj.a., Létourneau j.a. dissenting)	Appeal dismissed
May 28, 1999 Supreme Court of Canada	Application for leave to appeal filed

Her Majesty the Queen

v. (27477)

John R. Singleton (F.C.A) (B.C.)

NATURE OF THE CASE

Taxation - Income tax - Income from business or property - Deductions - Interest payments - Direct use of the borrowed funds.

PROCEDURAL HISTORY

September 3, 1996 Tax Court of Canada (Bowman J.T.C.C.)	Appeals by Respondent from the assessments for the 1988 and 1989 taxation years dismissed
June 11, 1999 Federal Court of Appeal (Rothstein and McDonald JJ.A., Linden J.A. dissenting)	Appeal allowed, judgment of the Tax Court of Canada and Minister's reassessment set aside
September 10, 1999 Supreme Court of Canada	Application for leave to appeal filed

Martin Richard McKinley

v. (27410)

BC TEL, British Columbia Telephone Company, BC Telecom Inc., BC TEL Services Inc., BC TEL Systems Support Inc., B.C. Mobile Ltd., BC TEL Properties Inc., Canadian Telephones and Supplies Ltd., and TSI Telecommunications Services International Inc. (B.C.)

NATURE OF THE CASE

Labour law - Master and servant - Contract of Employment - Dismissal without cause - Damages - Jury Trial - Charge to the Jury - Whether the Court of Appeal erred in allowing the appeal - Whether the Court of Appeal erred in dismissing the Applicant's cross appeal on punitive damages - Whether the Court of Appeal adopted the correct approach to just cause - Whether there are gradations of conduct one might classify as dishonest and whether a different result may follow depending on the circumstances of the case - Whether this decision is consistent with other appellate courts' decisions - Whether an injustice has resulted - Whether there has been a violation of the Applicant's human rights.

PROCEDURAL HISTORY

November 27, 1997 Supreme Court of British Columbia (Paris J.)	Applicant's action for damages for wrongful dismissal allowed
May 7, 1999 Court of Appeal for British Columbia (Hollinrake, Ryan, and Hall JJ.A.)	Respondents' appeal allowed: new trial ordered; Applicant's cross appeal dismissed
July 27, 1999 Supreme Court of Canada	Applicant's application for leave to appeal filed
August 31, 1999 Supreme Court of Canada	Respondents' conditional application for leave to cross appeal filed

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

Tuan Van Pham

v. (27572)

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

NATURE OF THE CASE

Criminal law - Narcotics - Evidence - Best evidence rule - Applicant convicted of possession of a narcotic for the purpose of trafficking - Court of Appeal upholding conviction - Whether Court of Appeal erred in holding that best evidence rule did not preclude admissibility of oral secondary evidence as to contents of certain documents and photographs - Whether Court of Appeal erred in upholding trial judge's decision to admit oral secondary evidence because evidence was neither necessary nor reliable - Whether Court of Appeal erred in holding that evidence linking Applicant to third party was sufficient to establish Applicant's control over narcotics in possession of third party.

PROCEDURAL HISTORY

May 28, 1998 Supreme Court of British Columbia (Baker J.)	Ruling on *voir dire* that certain evidence the Crown sought to admit was admissible
June 11, 1998 Supreme Court of British Columbia (Baker J.)	Conviction: possession of a narcotic for the purpose of trafficking
September 29, 1999 Court of Appeal for British Columbia (Hollinrake, Braidwood and Mackenzie JJ.A.)	Appeal dismissed
November 29, 1999 Supreme Court of Canada	Application for leave to appeal filed

The Estate of Yuan Vercingetorix Woo
(also known as Jean-Paul Martineau)

v. (27497)

The Privacy Commissioner of Canada and The National Archivist of Canada (F.C.A.)

NATURE OF THE CASE

Administrative Law - Procedural Law - Mootness - Whether the Federal Court of Appeal erred in confirming the judgement of the Federal Court Trial Division - Whether the Trial Division erred in finding that the Applicant's application was moot - Whether the Federal Court of Canada violated its duty to the Applicant according to "the rule of law" and principles of procedural fairness by failing to provide reasons explaining the logical basis for the judgments rendered.

PROCEDURAL HISTORY

September 16, 1998 Federal Court of Canada, Trial Division (McGillis J.)	Application for judicial review dismissed
June 18, 1999 Federal Court of Appeal (Desjardins, Décary, and Létourneau JJ.A.)	Appeal dismissed
September 17, 1999 Supreme Court of Canada	Application for leave to appeal filed

Ville de Montréal

c. (27398)

Canderel Limited, et Nalcan Properties Inc. et Bleury Dorchester Realties Inc. et Dorsity Holdings Inc. et Peel de Maisonneuve Investments Ltd. et 3744 Jean Brillant Properties Inc. et 1407 Mountain Street Building Inc. et Place Financière de Maisonneuve Inc. et, Viger Street Holdings Inc, et Place St-François Xavier Inc. et 148136 Canada Inc. et Drummond de Maissonneuve Properties Inc. et North American Life Assurance Company (Qué.)

NATURE DE LA CAUSE

Procédure - Dépens - Taxation du mémoire de frais - Amendement - Lorsqu'un amendement a été fait de plein droit selon l'article 199 C.p.c. dans le but de réduire le montant de la réclamation ainsi que les frais de l'action, est-ce que le mémoire de frais est taxable selon le montant à l'origine ou le montant tel que réduit par l'amendement?

HISTORIQUE PROCÉDURAL

Le 3 décembre 1998 Cour supérieure du Québec (Bénard j.c.s.)	Requête en révision de la taxation du mémoire de frais rejetée
Le 29 avril 1999 Cour d'appel du Québec (Rousseau-Houle, Otis et Nuss jj.c.a.)	Appel accueilli
Le 28 juin 1999 Cour suprême du Canada	Demande d'autorisation d'appel déposée

Raj Ahluwalia

v. (27382)

The College of Physicians and Surgeons of Manitoba (Man.)

NATURE OF THE CASE

Labour law - Physicians and surgeons - Professional misconduct - Unfitness to practise medicine - Manitoba College of Physicians and Surgeons ordering Applicant's name erased from College register - Court of Queen's Bench upholding decision - Court of Appeal setting aside order of erasure and ordering six-month suspension - Whether superior court entitled to review disciplinary bodies' deliberations with same authority as it is entitled to review decision of a superior court judge - Whether inquiry panel hearing fairly conducted - Whether participation of College's solicitor in hearing leads to appearance of bias which would invalidate any discipline imposed - Whether fact major participants in a citation concerning a professional are all associated with the professional association results in an apprehension of bias - Whether citizen's reliance on solicitor-client privilege as ground for excluding evidence raises inference against citizen with respect to evidence for which privilege is claimed.

PROCEDURAL HISTORY

January 8, 1997 Executive Committee of the College of Physicians and Surgeons of Manitoba	Erasure of Applicant's name from College register ordered
July 30, 1998 Court of Queen's Bench of Manitoba (Krindle J.)	Application for review and application for fresh evidence dismissed
January 25, 1999 Court of Appeal of Manitoba (Huband, Helper, and Monnin JJ.A.)	Applicant's appeal respecting findings of professional misconduct and unfitness to practise medicine dismissed
May 14, 1999	Order of erasure from register set aside; six-month

Court of Appeal of Manitoba (Huband, Helper and Monnin JJ.A.)	suspension ordered
June 28, 1999 Supreme Court of Canada	Application for leave to appeal filed

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William Frederick Dawes and Lorraine Beverly Dawes

v. (27403)

Peter Edward Jajcaj and Beverly Lynn Schouten (B.C.)

NATURE OF THE CASE

Torts - Motor vehicles - Damages - Spoliation - Doctrine of spoliation has not been considered by this Court since the case of *St. Louis v. The Queen*, [1895] 25 S.C.R. 649 - Whether the state of the law, as a result of this appellate decision, will probably result in significant injustice in other cases as well as this case - Whether the Court of Appeal misapprehended its duty with respect to appeals based upon an argument of palpable and overriding error.

PROCEDURAL HISTORY

November 3, 1995 Supreme Court of British Columbia (Boyd J.)	Applicants' action seeking damages for personal injuries sustained in a motor vehicle accident dismissed
November 10, 1995 Supreme Court of British Columbia (Boyd J.)	Ruling: Respondent's expert's reports are relevant and admissible
April 14, 1999 Court of Appeal for British Columbia (Prowse, Finch, and Mackenzie JJ.A.)	Appeal dismissed
June 10, 1999 Court of Appeal for British Columbia (Esson J.A.)	Motion to extend time to file application for leave to appeal granted
July 23, 1999 Supreme Court of Canada	Application for leave to appeal filed

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Canada Post Corporation

v. (27377)

Canadian Postmasters and Assistants Association (F.C.A.)

NATURE OF THE CASE

Administrative law - Judicial review - Standard of review - Whether standard of review on issue of bad faith involving general legal reasoning is one of correctness under s. 41(d) of the *Canadian Human Rights Act*, R.S.C. 1985, c. H-6 - Whether Federal Court of Appeal erred in failing to hold that the Canadian Human Rights Commission exceeded its authority by taking into account whether other procedures were "more appropriate" rather than "otherwise available" pursuant to s. 41(d) of the *Act*

PROCEDURAL HISTORY

May 8, 1997 Federal Court of Canada, Trial Division (Rothstein J.)	Application for judicial review of a decision of the Canadian Human Rights Commission dismissed
April 29, 1999 Federal Court of Appeal (Isaac C.J., Stone and Desjardins JJ.A.)	Appeal dismissed
June 25, 1999 Supreme Court of Canada	Application for leave to appeal filed

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Dans l'affaire de la faillite de: André L'Heureux

ENTRE :

Jean Fortin, ès qualité de syndic à la faillite de André L'Heureux (Qué.) (27350)

NATURE DE LA CAUSE

Droit commercial - Faillite - Rémunération du syndic - Art. 39 de la *Loi sur la faillite et l'insolvabilité*, L.R.C. (1985), ch. B-3 - Le tribunal siégeant en matière de faillite a-t-il juridiction pour intervenir *proprio motu* et réviser la rémunération attribuée au syndic par les créanciers réunis en assemblée? - La Cour d'appel du Québec aurait-elle dû exercer la juridiction qui lui était conférée aux termes de l'art. 187(5) de la *Loi* aux fins de rescinder son arrêt?

HISTORIQUE PROCÉDURAL

Le 13 mars 1998 Cour supérieure du Québec (Gomery j.c.s.)	Appel à l'encontre de la décision du registraire de faillite réduisant la rémunération du syndic de 18 000$ à 7 000$ rejeté
Le 15 avril 1999 Cour d'appel du Québec (Baudouin, Otis et Denis [*ad hoc*] jj.c.a.)	Pourvoi rejeté
Le 17 mai 1999 Cour d'appel du Québec (Baudouin, Otis et Denis [*ad hoc*] jj.c.a.)	Requête en rescision, révision et modification de l'arrêt du 15 avril rejetée
Le 14 juin 1999 Cour suprême du Canada	Demande d'autorisation d'appel déposée

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

Her Majesty the Queen in right of the Province of British Columbia

v. (27318)

Seline Alice Davies, Linda May Mailhot and Brenda Lynn Marshall

- and -

Clifford Andrew Hounsell, Eric Everett Pearson and Eric Everett Pearson for the Estate of Margaret Pearson (B.C.)

AND BETWEEN:

Her Majesty the Queen in right of the Province of British Columbia

v. (27318)

Keith Leonard Beadle, Philip Beadle and Henry Beadle

- and -

Florence Pleasance, Reginald Pleasance, Freda Hart, Vernon Hart, Jane Doe and John Doe (B.C.)

NATURE OF THE CASE

Procedural law - Limitation of actions - Negligence and breach of fiduciary duty - Whether the Court of Appeal erred in broadening the application of the common law discoverability rule to jurisdiction-conferring statutes - Whether the Court of Appeal erred in its interpretation of the meaning of the phrase "cause of action" - Whether the Court of Appeal erred in applying the common law discoverability rule to the *Crown Proceeding Act*, R.S.B.C., 1979, c. 236.

PROCEDURAL HISTORY

March 5, 1996 Supreme Court of British Columbia (Saunders J.)	Applicants' motion for an order pursuant to Rule 34: ruling on three points of law relating to the *Crown Proceeding Act* ordered
October 11, 1996 Supreme Court of British Columbia (Dillon J.)	Negative rulings on points 1 and 2; no need to consider point 3 dealing with the *Canadian Charter of Rights and Freedoms*
March 30, 1999 Court of Appeal for British Columbia (Esson, Cumming, Ryan [dissenting], Donald and Hall JJ.A.)	Applicant's appeal dismissed
May 27, 1999 Supreme Court of Canada	Application for leave to appeal filed

Bri-Mel Developments Limited and Sandra Swick

v. (27411)

Charles S. McLaren and Shon June McLaren (Ont.)

NATURE OF THE CASE

Property Law - Real property - Registration - Investigation of title - Restrictive covenants - Statutory Interpretation - Respondents filing Notice of Claim one month after expiry of 40 year notice period following registration of a deed - Whether Court of Appeal erred in interpreting s. 113(2)(b) of the *Registry Act*, R.S.O.1990, c. R.20 - Whether Court of Appeal decision conflicts with principles established in *Fire v. Longtin*, [1995] 4 S.C.R. 3.

PROCEDURAL HISTORY

September 10, 1998 Ontario Court of Justice (MacDonald J.)	Application dismissed
May 7, 1999 Court of Appeal for Ontario (Doherty, Moldaver, and Feldman JJ.A.)	Appeal dismissed
July 30, 1999 Supreme Court of Canada	Application for leave to appeal filed

Yaw Dwomoh

v. (27534)

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

NATURE OF THE CASE

Immigration law -Administrative law - Appeal - Jurisdiction - Application for sponsorship for immigration purposes of putative daughter denied - DNA testing excluding proposed sponsor as father of the person sought to be sponsored and therefore removing that person from the family class - Immigration and Refugee Board (Appeal Division) without jurisdiction to consider compassionate and humanitarian grounds for applicants not part of family class - Whether opportunity should have been given to make plea on humanitarian and compassionate grounds and to speak on the presented sworn affidavit of putative daughter's mother testifying to the truth of Applicant's paternity - Whether Board has jurisdiction to hear appeal.

PROCEDURAL HISTORY

June 25, 1998 Immigration and Refugee Board (Appeal Division) (D'Ignazio D.)	Applicant's appeal from the refusal of sponsorship application of his daughter dismissed
September 30, 1998 Immigration and Refugee Board (Appeal Division) (Aterman P.)	Applicant's motion to reopen appeal denied
July 6, 1999 Federal Court of Canada, Trial Division	Application for leave to appeal dismissed

(Gibson J.)

September 29, 1999
Supreme Court of Canada

Application for leave to appeal filed

**Ajmer Singh Gill also known as Randy Gill,
carrying on business under the firm name and style of Randy's
Backhoe Service also known as Randy's Backhoe
& Trucking**

v. (27025)

**Gurcharn Gill, and Piar Gill,
carrying on business under the firm name and style of G & P Gill
Farm, and the said Gurcharn Gill and Piar Gill (B.C.)**

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Commercial law - Contracts - Interpretation of contract - Whether trial judge and court of appeal erred in interpretation of contract - Whether court of appeal erred in dismissing the Applicant's appeal on the basis that *Tonneguzzo Norvell et. al v. Savein et al.* (1984) 110 D.L.R. (4th) 289, at p. 292, had no application on the facts and did not necessitate a second warning pursuant to s. 10 (*b*) of the *Charter*.

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PROCEDURAL HISTORY

December 12, 1997
Supreme Court of British Columbia (Grist J.)

Respondents' action for breach of contract allowed

November 20, 1998
Court of Appeal for British Columbia
(Hinds, Hollinrake, Ryan JJ.A.)

Appeal dismissed

March 3, 1999
Court of Appeal for British Columbia
(Hinds, Hollinrake, Ryan JJ.A.)

Application for re-hearing dismissed

June 2, 1999
Supreme Court of Canada

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

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Leroy Butcher

v. (27375)

Government of St. Lucia (Ont.)

NATURE OF THE CASE

International law - State immunity - Employment contract between sovereign state and person offered position of consul to Canada - Consul designate's services suspended - Whether the negotiations leading up to a contract between a Canadian citizen and a foreign state fall within the exception of "commercial activity" pursuant to s. 5 of the *State Immunity Act*, R.S.C., 1985, c. S-18 - Whether Canadian courts have jurisdiction to inquire into the functions and duties of a Canadian

citizen providing consular services for a foreign state as part of its determination of whether the s. 5 exemption for "commercial activity" is applicable - Whether Canadian courts have jurisdiction to hear a claim for damages for breach of contract or negligent misrepresentation brought by a Canadian citizen, contracted to provide consular services in Canada, against a foreign state pursuant to s. 6 of the *State Immunity Act.*

PROCEDURAL HISTORY

May 13, 1998 Ontario Court of Justice (General Division) (Aitken J.)	Respondent's motion for an order permanently staying the action granted
April 15, 1999 Court of Appeal for Ontario (Morden, Laskin, Rosenberg JJ.A.)	Motion to adduce fresh evidence dismissed; appeal dismissed
June 25, 1999 Supreme Court of Canada	Application for extension of time filed; application for leave to appeal filed

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Royal Shirt Company Ltd.

v. (27412)

Ontario Labour Relations Board (Ont.)

NATURE OF THE CASE

Labour law - Labour relations - Certification - Procedural law - Actions - Applicant claiming damages against Respondent Ontario Labour Relations Board for breach of a duty of care in failing to properly exercise its authority granted pursuant to Ontario *Labour Relations Act* - Applicant's statement of claim struck out - Whether Board should enjoy special and absolute immunity from suit by persons appearing before it even when bias, bad faith, or *mala fides* with intent to injure as against such persons is demonstrated.

PROCEDURAL HISTORY

November 2, 1998 Ontario Court (General Division) (Hawkins J.)	Respondent's motion for an order striking the Applicant's statement of claim allowed
May 17, 1999 Court of Appeal for Ontario (Catzman, Abella and Moldaver JJ.A.)	Applicant's appeal dismissed
July 29, 1999 Supreme Court of Canada	Application for leave to appeal filed

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MARCH 16, 2000 / LE 16 MARS 2000

27405 **IAN BROWN AND MARCUS LEECH CARRYING ON BUSINESS AS SYNCHRONICS v. SYNCHRONICS, INCORPORATED** (FCA) (Ont.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal and the ancillary motion are dismissed.

La demande d'autorisation d'appel et la requête accessoire sont rejetées.

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Procedural law - Judgment and orders - Action against partnership alleging copyright infringement - Interlocutory application by partners to act for partnership and file joint defence and counterclaim dismissed - Application to reconsider dismissed - On motion for default judgment by Respondent, order issuing allowing Applicants 15 days to retain lawyer, failing which default judgment would issue - Applicants' appeal quashed - Whether time to appeal from interlocutory orders of Federal Court (Trial Division) expired.

PROCEDURAL HISTORY

March 23, 1999 Federal Court of Canada (Trial Division) (Teitelbaum J.F.C.C.)	Application for an order authorizing the human Applicants to act for the defendant Synchronics, and for an order permitting all three defendants to file a joint statement of defence and counterclaim denied
May 7, 1999 Federal Court of Canada (Trial Division) (Teitelbaum J.F.C.C.)	Application for reconsideration denied; Applicants ordered to retain the services of legal counsel within 15 days of order, failing which judgment would be granted by default
June 15, 1999 Federal Court of Appeal (Linden, Rothstein and Noël JJ.A.)	Respondent's application to quash Applicants' appeal allowed
August 26, 1999 Federal Court of Appeal (Strayer J.A.)	Motion for an order staying the execution of judgment dismissed
September 14, 1999 Supreme Court of Canada	Application for leave to appeal filed

27344 **KARIN A. RUGGEBERG v. BANCOMER, S.A.** (Ont.)

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

Procedural law - Civil procedure - Conflict of laws - *Forum non conveniens* - Applicant commencing action in Ontario for damages arising out of termination of employment with Mexican bank - Ontario action stayed on ground that Mexico was appropriate forum - Whether, in absence of contractual stipulation, employees working in Canada for foreign employers are presumptively governed by employment law of Canada or by that of employer's jurisdiction - Whether Canadian law should be applied to determine whether or not a jurisdiction clause unilaterally imposed by a foreign employer after employment has commenced should apply to the contract of employment - Whether there are circumstances where a dismissed employee may have resort to remedies in more than one jurisdiction - Whether contracts of employment with foreign employers are treated differently from those with domestic employers.

PROCEDURAL HISTORY

February 13, 1998 Ontario Court of Justice (General Division) (Cullity J.)	Respondent's motion for a permanent stay granted
April 16, 1999 Court of Appeal for Ontario (Doherty, Abella and O'Connor JJ.A.)	Applicant's appeal dismissed
June 10, 1999 Supreme Court of Canada	Application for leave to appeal filed

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27174 **MATTEL CANADA INC. v. HER MAJESTY THE QUEEN** (F.C.A.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

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

La demande d'autorisation d'appel et la demande d'autorisation d'appel incident sont accordées.

NATURE OF THE CASE

Taxation - Customs and excise - Royalties - Applicant, as purchaser, discharged vendor's obligation to make royalty payment on goods sold for export to Canada - Whether Court of Appeal erred in selecting the relevant sale of goods sold for export to Canada under the *Customs Act* - Whether Court of Appeal erred in distinguishing American cases and other sections of the *Customs Act* - Whether Court of Appeal erred in finding that royalty payments made by the Applicant were to be included in the purchase price for the purpose of calculating duty - Whether Court of Appeal erred in finding ss. 48(5)(*a*)(iv) and 48(5)(*a*)(v) of the *Customs Act* applicable to the indirect royalty payments.

PROCEDURAL HISTORY

January 15, 1997 Canadian International Trade Tribunal (Trudeau, Gracey and Russell, members)	Appeals allowed in part
January 13, 1999 Federal Court of Appeal (Strayer, Létourneau, and Robertson JJ.A.)	Appeal allowed in part; cross-appeal dismissed
March 15, 1999 Supreme Court of Canada	Application for leave to appeal filed

March 24, 1999 Supreme Court of Canada (Major J.)	All confidential material in the Federal Court record to be bound separately and clearly marked as confidential
March 29, 1999 Supreme Court of Canada (Major J.)	Paragraphs 6, 7, 37, 38 and 39 of the Applicant's memorandum of argument in the application for leave to appeal are sealed
April 15, 1999 Supreme Court of Canada	Application for leave to cross-appeal filed

27371 **THE GENERAL MANAGER, LIQUOR CONTROL v. OCEAN PORT HOTEL LIMITED** (B.C.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Administrative law - Administrative tribunals - Liquor Appeal Board - Institutional independence - Liquor Appeal Board suspending hotel's licence for two days - Whether fact that members of Board are appointed at the pleasure of the Lieutenant Governor denies them security of tenure, a component of that tribunal's independence - If so, whether Board's decision should be set aside.

PROCEDURAL HISTORY

December 10, 1997 Liquor Appeal Board (McCallum, Parker, Saini, members)	Appeal from a decision of the Senior Inspector suspending the Respondent's liquor licence for two days denied
May 12, 1999 Court of Appeal for British Columbia (Macfarlane, Donald, Huddart JJ.A.)	Appeal allowed
June 23, 1999 Supreme Court of Canada	Application for leave to appeal filed

27258 **MONENCO LTD. AND 67699 ALBERTA INC. v. COMMONWEALTH INSURANCE COMPANY** (B.C.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Commercial law - Insurance - Duty to defend - Evidence - In determining the existence of a "duty to defend" under a policy of insurance is the inquiry to be confined to the policy at issue and the pleadings in the underlying action, or is extrinsic evidence admissible?

PROCEDURAL HISTORY

August 28, 1997 Supreme Court of British Columbia (Taylor J.)	Action dismissed
February 19, 1999 Court of Appeal for British Columbia (Lambert, Southin, and Braidwood JJ.A.)	Appeal dismissed
April 19, 1999 Supreme Court of Canada	Application for leave to appeal filed

27682 **WILLIS BARCLAY FREDERICK BOSTON - v. - SHIRLEY ISOBEL BOSTON** (Ont.)

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

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Family law - Spousal support - Material change in circumstances - Pension in payment - Payor having few assets but having pension income of $98,000 per annum - Recipient spouse having assets of $495,000 but little income - Pension previously subject to equalization of assets with recipient spouse - Whether support paid from pension income is "double dipping" - Whether only unequalized portion of pension should be considered as income for spousal support - Whether recipient spouse obliged to maximize income potential of her assets - *Family Law Act*, R.S.O. 1990, c. F-3.

PROCEDURAL HISTORY

March 16, 1999 Ontario Court of Justice (General Division) (Robertson J.)	Application to vary consent judgment: Orders reducing spousal support to $950 per month, non-indexed; review of support when wife reaches 65 years; and rescinding arrears of spousal support
November 5, 1999 Court of Appeal for Ontario (Catzman, Labrosse and Moldaver JJ.A.)	Order increasing spousal support to $2,000 per month, indexed, arrears to be paid
January 4, 2000 Supreme Court of Canada	Application for leave to appeal filed

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27345 **LLEWELYN SIMON - v. - HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO** (Ont.)

CORAM: L'Heureux-Dubé, Bastarache and LeBel 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

Canadian Charter - Criminal law - Crown liability - Torts - Malicious prosecution - What is the nature and scope of the cause of action created by sections 7 and 24 of the *Canadian Charter of Rights and Freedoms* - Whether that cause of action is separate and distinct from the common law tort of malicious prosecution - Whether the prosecution of an individual for the offence of fraud, in the circumstances of the present case, where there is no evidence of *mens rea*, is a violation of the individual's rights under section 7 of the *Charter* - Whether the Crown has an absolute right to prosecute - Whether the Supreme Court's decision in *Weber v. Ontario Hydro*, [1995] 2 S.C.R. 929, applies to the facts of this case?

PROCEDURAL HISTORY

August 4, 1998 Ontario Court of Justice (General Division) (LaForme J.)	Applicant's motion to amend his statement of claim and add a defendant dismissed; Respondent's motion for summary judgment allowed; Applicant's action dismissed
April 8, 1999 Court of Appeal for Ontario (Labrosse, Abella and Charron JJ.A.)	Appeal dismissed
June 10, 1999 Supreme Court of Canada	Application for leave to appeal and motion for extension of time filed

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27387 **ALAN THOMAS MATHERS - v. - SUN LIFE ASSURANCE COMPANY OF CANADA** (B.C.)

CORAM: L'Heureux-Dubé, Bastarache and LeBel 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 - Insurance - Breach of contract - Long term disability benefits - "Total disability" within the policy of insurance - Whether the Court of Appeal erred in law in dismissing the appeal - Whether uncontradicted expert testimony given at trial may be disregarded without making any adverse finding as to the credibility of the expert witness - Whether expert medical evidence may be disregarded where the trial judge does not agree with the expert's methodology of diagnosis, in the absence of expert evidence contradicting the validity of the methodology used - Whether a trial judge may substitute her own opinion for that of an expert witness - Whether subjective pain and genuine belief in disability can satisfy the test for total disability in the absence of medical evidence as to the cause of the pain.

PROCEDURAL HISTORY

March 11, 1998 Supreme Court of British Columbia (Allan J.)	Applicant's claim for damages for breach of contract dismissed
April 28, 1999 Court of Appeal for British Columbia (Goldie, Finch, Ryan JJ.A.)	Appeal dismissed
June 28, 1999 Supreme Court of Canada	Application for leave to appeal filed

7.3.2000

Before / Devant: BASTARACHE J.

Motions for additional time to present oral argument

Requêtes en prorogation du temps accordé pour la plaidoirie

The Public School Boards' Association of Alberta, et al.

v. (26701)

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

ALLOWED IN PART / ACCUEILLIES EN PARTIE

The two motions were considered together. Time afforded to the main parties shall be as follows: PSBAA & Calgary Board are allowed 1 hour; the respondent ACSTA is allowed 30 minutes; the respondent Alberta is allowed 1 hour and 30 minutes.

7.3.2000

Before / Devant: BASTARACHE 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 une demande d'autorisation

R.B.T.

v. (27734)

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

REFERRED / RÉFÉRÉE The motion will be presented with the application for leave an dealt with together with the leave application.

8.3.2000

Before / Devant: LE JUGE EN CHEF

Requête pour ajourner l'audition de l'appel

Motion to adjourn the hearing of the appeal

M. le juge Richard Therrien, J.C.Q.

c. (27004)

Ministre de la Justice et al. (Qué.)

ACCORDÉE / GRANTED
La requête de l'appelant pour obtenir une ordonnance ajournant l'audition du présent appel à la session de l'automne 2000 est accordée. L'appel sera entendu dans les deux premières semaines de la session.

8.3.2000

Before / Devant: THE CHIEF JUSTICE

Miscellaneous motion **Autre requête**

Rui Wen Pan

v. (27424)

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

GRANTED / ACCORDÉE

UPON APPLICATION by counsel for the appellant for an order allowing the within appeal to be heard at the same time as the appeal in *Bradley Sawyer v. The Queen* (27277);

HAVING READ the material filed and with the consents of the parties in both appeals;

IT IS HEREBY ORDERED THAT:

1) This appeal be heard together with the appeal in *Bradley Sawyer v. The Queen* (27277);

2) The time limits for the filing of the facta by the respondent and by the interveners in *Bradley Sawyer v. The Queen* (27277) be extended to coincide with the time limits therefor in the within appeal;

3) That both appeals be heard together in the first two weeks of the Fall session.

8.3.2000

Before / Devant: BINNIE J.

Motion for extension of time and leave to intervene **Requête en prorogation de délai et en autorisation d'intervenir**

BY/PAR: Corporation of the Township of Bexley et al.

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

v. (26701)

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

DISMISSED / REJETÉE

UPON APPLICATION by The Corporation of the Township of Bexley, the Corporation of The Municipality of Bobcaygeon/Verulam, the Corporation of the Township of Fenelon, The Corporation of the Township of Somerville, the Corporation of the Village of Sturgeon Point and 1401900 Ontario Limited, c.o.b. Victoria Citizens Legal Challenge for an extension of time and for leave to intervene;

AND UPON READING the material filed;

AND HAVING REGARD TO the following considerations;

The applicants are a group of municipalities in Ontario who contemplate commencing an action in Ontario against the Attorney General of Ontario relying on some of the same legal arguments to be canvassed in this Alberta appeal which is scheduled to be heard on March 21, 2000. The material shows that the applicants retained solicitors to advise with regard to the proposed Ontario proceedings on January 5, 2000. Those proceedings are still in contemplation but not yet commenced. The Court has not been provided with a draft factum setting out the arguments the applicants wish to advance in this appeal and it is therefore not possible to ascertain whether the applicants are able to bring a unique perspective to the legal issues, or indeed whether they have any submissions that would differ in any material respect from those already made in the factum of the experienced counsel for the appellants. The hearing of the appeal is less than two weeks away and it would be unfair to the other parties to inject a new intervener with undisclosed arguments into the controversy at this late stage. As none of the present parties or interveners has yet filed any material on the motion, the dismissal is without costs.

IT IS HEREBY ORDERED THAT the application for an extension of time and for leave to intervene is dismissed without costs.

9.3.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the applicant's reply

Requête en prorogation du délai imparti pour signifier et déposer la réplique de la demanderesse

Her Majesty the Queen

v. (27724)

Jack Walls, et al. (F.C.A.)

GRANTED / ACCORDÉE Time extended to March 6, 2000.

9.3.2000

Before / Devant: LE REGISTRAIRE

Requête pour permission de déposer un mémoire d'appel de plus de 40 pages

Motion to file a factum on appeal over 40 pages

Sa Majesté la Reine

c. (27050)

Marie-Suzanne Caouette (Crim.)(Qué.)

GRANTED / ACCORDÉE Production d'un mémoire de 49 pages est accordée.

13.3.2000

Before / Devant: LE REGISTRAIRE

Requête en prorogation du délai imparti pour signifier et déposer le mémoire des intervenants l'Office des droits de détenus et l'Association des services de réhabilitation sociale du Québec

Motion to extend the time in which to serve and file the factum of the interveners L'Office des droits de détenus and L'Association des services de réhabilitation sociale du Québec

Mr. le juge Richard Therrien, J.C.Q.

c. (27004)

Ministre de la Justice, et al. (Qué.)

ACCORDÉE / GRANTED Délai prorogé au 13 avril 2000.

13.3.2000

Before / Devant: BASTARACHE J.

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

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

Apotex Inc.

v. (27764)

Merck & Co. Inc., et al. (F.C.A.)

GRANTED / ACCORDÉE Time extended to February 15, 2000.

14.3.2000

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

Her Majesty the Queen

v. (27013)

D.D. (Crim.)(Ont.)

M. David Lepofsky and Christopher Webb, for the appellant.

P. Andras Schreck, for the respondent.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Criminal Law - Evidence - Expert opinions - Psychologist's testimony admitted at trial to explain why complainant of tender years had delayed disclosure of sexual abuse for two to three years - Whether it is open to a trial judge in his or her discretion to permit the Crown to call an expert psychologist to establish that this delay is of no assistance in assessing whether the allegation of sexual abuse is true, particularly where the defence intends to argue that "common sense" shows that this delay in disclosure indicates that the allegation is false.

Nature de la cause:

Droit criminel - Preuve - Opinions d'expert - Témoignage d'un psychologue admis au procès pour expliquer pourquoi la plaignante en bas âge avait mis de deux à trois ans avant de divulguer l'abus sexuel - Le juge du procès a-t-il le pouvoir discrétionnaire de permettre au ministère public de citer un psychologue comme témoin expert pour établir que ce retard n'est d'aucune aide quand il s'agit de déterminer si l'allégation d'abus sexuel est vraie, particulièrement lorsque la défense a l'intention d'alléguer que « le bon sens » montre que ce retard à divulguer est une indication que l'allégation est fausse?

AGENDA for the week beginning March 20, 2000.
ORDRE DU JOUR pour la semaine commençant le 20 mars 2000.

Date of Hearing/ Date d'audition	Case Number and Name/ Numéro et nom de la cause
2000/03/20	Advance Cutting & Coring Ltd, et al v. Her Majesty the Queen (Que.) (Civil) (By Leave) (26664)
2000/03/21 & 00/03/22	Public School Boards' Association of Alberta, et al. v. Attorney General of Alberta, et al. (Alta.) (Civil) (By Leave) (26701)
2000/03/23	Sa Majesté la Reine c. Renaud Lévesque (Qué.) (Criminelle) (Autorisation) (26939)
2000/03/24	Howard Shulman v. United States of America (Ont.) (Criminal) (By Leave) (26912)
2000/03/24	Paul Yick Wai Kwok, et al. v. United States of America, et al. (Ont.) (Criminal) (By Leave) (26919)
2000/03/24	Harry Cobb and Allen Grossman v. The United States of America (Ont.)(Crim.)(By Leave) (27610)
2000/03/24	James Tsioubris v. The United States of America (Ont.)(Crim.)(By Leave) (27774)

NOTE:

This agenda is subject to change. Hearing dates should be confirmed with 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.

26664 ***Advance Cutting & Coring Ltd. et al. v. Her Majesty the Queen***

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.

The Appellant, as well as several other employees and contractors, were charged with breaching several provisions of *an Act respecting labour relations, vocational training and manpower management in the construction industry*, R.S.Q., c. R-20 (hereafter the *Act*). The Appellant, as an employer, is charged with having hired the services of or assigned to construction work an employee who was not the holder of the required competency certificate or the recipient of an exemption (s. 119.1(3) of the *Act*).

In all of these cases, the definitional elements of the offences were admitted. However, the accused claim that sections 28, 30, 32, 39, 119.1(1) and 120 of the *Act* are unlawful because they violate section 2(*d*) of the *Canadian Charter*.

Bonin J. of the Court of Quebec dismissed the constitutional argument. Before Trudel J. of the Superior Court, the accused argued that the Quebec legislator was using sections 28 *et seq.* of the *Act* to require them to be unionized in order to find employment in the construction industry. Based on section 2(*d*) of the *Canadian Charter*, they argued that the *Charter* includes the right of non-association. They added that in the instant case, foreign law must be used to interpret the *Charter* and to strike down all of the provisions of the *Act* which support closed shops and which limit the right to individual freedom. Finally, they added that these sections of the *Act* can no longer be justified in a free and democratic society.

The Attorney General stated that the impugned provisions do not infringe the freedom of association guaranteed in the *Charter*. If that were the case, the infringement would be justified in a free and democratic society. The Attorney General also raised two other preliminary arguments: the lack of nexus between these offences and the constitutional argument raised and the related principle of judicial deference. Trudel J. dismissed the appeal of the accused.

The Quebec Court of Appeal dismissed the motion for leave to appeal by the Appellant, one of the accused at first instance. The Appellant appeals by leave of the Court.

Origin of the case:	Quebec
File No.:	26664
Judgment of the Court of Appeal:	March 31, 1998
Counsel:	Julius H. Grey for the Appellant Martin Lamontagne for the Respondent

26664 ***Advance Cutting & Coring Ltd. et al. c. Sa Majesté la Reine***

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.

L'appelante, ainsi que plusieurs autres salariés et entrepreneurs, sont accusés d'avoir contrevenu à diverses dispositions 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 (ci-après la "*Loi*"). L'appelante, comme employeur, est accusée d'avoir utilisé les services d'un salarié ou de l'avoir affecté à des travaux de construction sans qu'il soit titulaire du certificat de compétence requis ou d'une exemption (art. 119.1(3) de la *Loi*).

Dans tous les dossiers, les faits constitutifs des infractions sont admis. Les accusés soulèvent cependant l'invalidité des articles 28, 30, 32, 39, 119.1(1) et 120 de la *Loi* parce qu'ils porteraient atteinte l'alinéa 2d) de la *Charte canadienne*.

Le juge Bonin de la Cour du Québec rejette l'argument constitutionnel. Devant le juge Trudel de la Cour supérieure, les accusés reprochent au législateur québécois, par le truchement des articles 28 et suivants de la *Loi*, de leur imposer le syndicalisme pour avoir un emploi dans le secteur de la construction. S'appuyant sur l'alinéa 2d) de la *Charte canadienne*, ils soutiennent que la *Charte* comprend le droit de ne pas s'associer. Ils ajoutent que le droit étranger doit servir, en l'espèce, à interpréter la *Charte* et à écarter toutes dispositions de la *Loi* favorisant les ateliers fermés et défavorisant le droit à la liberté individuelle. Enfin, ils ajoutent que les dispositions précitées de la *Loi* ne peuvent plus se justifier dans le cadre d'une société libre et démocratique.

Le procureur général affirme que les dispositions contestées ne portent aucunement atteinte à la liberté d'association garantie par la *Charte*. Si tel était le cas, cette atteinte serait justifiée dans le cadre d'une société libre et démocratique. Le procureur général soulève en outre deux moyens préliminaires: l'absence de lien entre les infractions reprochées et l'argument constitutionnel plaidé, et le principe de la retenue judiciaire qui en découle. Le juge Trudel rejette l'appel des accusés.

La Cour d'appel du Québec rejette la requête pour permission d'appel de l'appelante, l'une des accusées en première instance. L'appelante en appelle maintenant sur permission de cette Cour.

Origine:	Québec
N° du greffe:	26664
Arrêt de la Cour d'appel:	Le 31 mars 1998
Avocats:	Me Julius H. Grey pour l'appelante Me Martin Lamontagne pour l'intimée

26701 ***The Public School Boards' Association of Alberta et al v. The Attorney General***

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*.

In May 1994, the Legislature of Alberta amended the *School Act*, S.A. 1988, c. S-3.1, by passing the *School Amendment Act, 1994*, S.A. 1994, c. 29 and the *Government Organization Act*, S.A. 1994, c. G-8.5. The amendments centralize control of education, compel boards to meet Ministerial standards, increase the Minister's control over school boards' senior staff, and create a new scheme for funding school boards. The objective of the funding amendments is to remove previously existing fiscal inequity and disparity within the school system that was caused by variances in individual school boards' requisition mill rates.

Public school boards can no longer retain money raised through direct taxation. All revenues from property assessments are pooled into the Alberta School Foundation Fund and then distributed to school boards in "per student" allotments such that each board receives an amount determined by multiplying the "per student" allotment by the number of students enrolled within that school board's jurisdiction. Separate boards may opt to continue requisitioning taxes directly from ratepayers, however, under section 159.1(4) of the *School Act*, they may not retain more or less revenue per student than the per student allotment distributed from the Fund.

Two groups of individuals, school boards, boards of trustees, trustees' associations and school board associations formed and commenced actions challenging the amendments. The Court of Queen's Bench of Alberta heard both actions together and rendered one judgment. It held that local government institutions, including school boards, do not have a constitutional right to reasonable autonomy. It held that the impugned legislation did not contravene s. 17(2) of the *Alberta Act*, S.C. 1905, c. 3 but did contravene a guarantee of mirror equality.

On appeal, the Court of Appeal allowed the cross-appeal by the Government on mirror equality. It dismissed the appeal and cross-appeal brought by the School Boards' Associations.

Origin of the case:	Alberta
File No.:	26701
Judgment of the Court of Appeal:	March 31, 1998
Counsel:	Dale Gibson and Rangi Jeerakathil and Ritu Khullar for the Appellants Public School Board's Association Eric Groody for the Appellants Board of Trustees of Calgary Robert C. Maybank for the Respondent Attorney General James E. Redmond Q.C. and Kevin P. Feehan for the Respondents Alberta Catholic School Trustees'

26701 ***The Public School Boards' Association of Alberta et al c. Le procureur général***

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*?

En mai 1994, l'assemblée législative de l'Alberta a modifié la *School Act*, S.A. 1988, ch. S-3.1, en adoptant la *School Amendment Act, 1994*, S.A. 1994, ch. 29, et la *Government Organization Act*, S.A. 1994, ch. G-8.5. Les modifications centralisent le contrôle de l'éducation, forcent les conseils à respecter des normes ministérielles, accroissent le contrôle du ministre sur les cadres supérieurs des conseils scolaires et créent un nouveau régime de financement des conseils scolaires. Les modifications apportées au financement ont pour objectif de faire disparaître l'inégalité et la disparité fiscales qui existaient au sein du système scolaire et qui résultaient des différences dans les taux par mille des prélèvements effectués par les conseils scolaires individuels.

Les conseils scolaires publics ne peuvent plus conserver les sommes obtenues par la taxation directe. Tous les revenus provenant des évaluations de biens sont réunis dans l'Alberta School Foundation Fund (le Fonds) puis distribués aux conseils scolaires en portions « par élève », de sorte que chaque conseil reçoit un montant obtenu par la multiplication de la portion « par élève » par le nombre d'élèves inscrits dans ce conseil scolaire. Les conseils d'écoles séparées peuvent choisir de continuer de prélever des taxes directement des contribuables; cependant, en vertu du par. 159.1(4) de la *School Act*, ils ne peuvent conserver plus ou moins de revenu par élève que la portion par élève distribuée par le Fonds.

Deux groupes d'individus, de conseils scolaires, de conseils d'administration, d'associations d'administrateurs et d'associations de conseils scolaires se sont formés et ont intenté des actions contestant les modifications. La Cour du Banc de la Reine de l'Alberta a entendu les deux actions ensemble et rendu un seul jugement. Elle a conclu que les institutions gouvernementales locales, y compris les conseils scolaires, ne sont pas titulaires d'un droit constitutionnel à l'autonomie raisonnable. Elle a conclu que la loi contestée ne violait pas le par. 17(2) de la *Loi sur l'Alberta*, S.C. 1905, ch. 3, mais violait une garantie d'égalité parallèle.

La Cour d'appel a accueilli l'appel incident formé par le gouvernement sur l'égalité parallèle. Elle a rejeté l'appel et l'appel incident interjetés par les associations de conseils scolaires.

Origine:	Alberta
N^{o} du greffe:	26701
Arrêt de la Cour d'appel:	Le 31 mars 1998
Avocats:	Dale Gibson, Rangi Jeerakathil et Ritu Khullar pour l'appelante Public School Board's Association Eric Groody pour l'appelante Board of Trustees of Calgary Robert C. Maybank pour l'intimé le procureur général James E. Redmon, c.r., et Kevin P. Feehan pour les intimés Alberta Catholic School Trustees

26939 ***Her Majesty the Queen v. Renaud Lévesque***

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.

The Respondent pleaded guilty to a charge of kidnapping and hostage-taking, and to a series of charges in relation to incidents which took place on June 22, 1996, when he broke and entered into a home and unlawfully confined three members of a family, including a child, in order to lay hands on large sums of money he believed held in a safe. On February 19, 1997, he was given concurrent prison sentences on each count, the stiffest sentence being ten years and six months.

The Respondent appealed his sentence to the Court of Appeal, arguing it was disproportionate to those imposed for similar crimes. He brought an application to adduce fresh evidence before the Court. He wanted three post-sentencing expert reports admitted in evidence. The first, dated April 3, 1997, was prepared by psychologist Marc Daigle for the correctional service. The second, dated March 17, 1998, was by psychiatrist Louis Morissette. The third, dated March 31, 1998, was prepared by psychologist Jacques Bigras for the correctional service at the conclusion of a program undertaken during imprisonment. The Crown objected to the admission of the first two reports on the ground that the assessments could have been obtained by the Respondent at the time of sentencing.

The majority of the Court of Appeal allowed the application for leave to appeal and the application to adduce the reports of psychologist Daigle and psychiatrist Morissette. They substituted a sentence of five and one-half years' imprisonment for the previously imposed sentence. Chamberland J.A., dissenting, would not have accepted the reports of the first two experts and would have reduced the sentence to eight years and six months' imprisonment.

Origin of the case:	Quebec
File No.:	26939
Judgment of the Court of Appeal:	September 8, 1998
Counsel:	Henri-Pierre Labrie for the Appellant Pauline Bouchard for the Respondent

26939 ***Sa Majesté la Reine c. Renaud Lévesque***

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.

L'intimé a plaidé coupable à une accusation d'enlèvement et prise d'otage, et à une série d'accusations reliées à des événements survenus le 22 juin 1996. Il s'était alors introduit par effraction et avait séquestré trois membres d'une famille, dont un enfant, dans leur propre maison afin de s'emparer de fortes sommes d'argent qu'il croyait gardées dans un coffre-fort. Le 9 février 1997, il a été condamné à des peines de prison applicables à chaque chef d'accusation, la plus sévère étant de dix ans et six mois, à être purgées de façon concurrente.

L'intimé en appelle de sa sentence à la Cour d'appel, soutenant que la peine était disproportionnée par rapport aux peines imposées pour des crimes similaires. Il a présenté une requête pour production de nouvelle preuve devant la Cour. Il voulait faire admettre en preuve trois rapports d'experts, tous postérieurs à la sentence. Un premier était daté du 3 avril 1997 et provenait du psychologue Marc Daigle pour le compte des services correctionnels. Le deuxième avait été préparé par le psychiatre Louis Morrissette et était daté du 17 mars 1998. Le troisième était celui du psychologue Jacques Bigras, daté du 31 mars 1998, et préparé pour le compte des services correctionnels au terme d'un programme entrepris dans le cadre de sa détention. La poursuite s'est opposé à l'admission des deux premiers rapports, au motif que ces évaluations auraient pu être obtenues par l'intimé au moment de la détermination de la peine.

La majorité de la Cour d'appel a accueilli la requête en autorisation d'appel ainsi que la requête pour production en ce qui concernait les rapports du psychologue Daigle et le psychiatre Morrissette. Ils ont substitué une peine de cinq ans et demi d'incarcération à celle précédemment accordée. Le juge Chamberland, minoritaire, n'aurait pas retenu les rapports des deux premiers experts, et aurait diminué la peine à huit ans et six mois de prison.

Origine:	Québec
N° du greffe:	26939
Arrêt de la Cour d'appel:	Le 8 septembre 1998
Avocats:	Me Henri-Pierre Labrie, pour l'appelante Me Pauline Bouchard pour l'intimé

26912 ***Howard Shulman v. The United States of America***

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.

The Appellant, a Canadian citizen, was sought for extradition by the United States in connection with charges including conspiracy to commit fraud, in relation to allegations that he and others, while in Canada, made illegal sales of gemstones to residents of the United States through telephone contact originating in Canada. The RCMP conducted an extensive investigation on behalf of the Canadian authorities into the circumstances that were the basis for the American charges, but ultimately decided that Canadian proceedings would not be initiated against the Appellant and others. Instead, much of the material obtained during the Canadian police investigation was provided to the American authorities, and some of it was relied upon by the United States in the extradition proceedings. All of the affidavit evidence directly referring to the Appellant and his allegedly unlawful activities was provided by alleged co-conspirators who themselves faced outstanding charges in the United States, and who had subsequently pled guilty to some or all of those charges, but who were not sentenced at the time that their affidavit material was prepared.

At the extradition hearing, the Appellant sought disclosure concerning the status of the American proceedings as they related to each of the alleged co-conspirators. The Appellant also sought disclosure of all discussions between Canadian police and American prosecutors concerning the decision by the Canadian authorities not to prosecute in Canada. The Appellant also made an application to stay the extradition proceedings or alternatively, to exclude the affidavit evidence under s. 24(2) of the *Charter*.

The extradition judge dismissed the Appellant's applications and ordered the Appellant to be committed for surrender to the United States. The Appellant appealed the decision of the extradition judge to the Court of Appeal. He also brought a motion to adduce fresh evidence. The subject of the motion was certain comments by the judge assigned to hear the Appellant's trial in connection with the charges should the Appellant be extradited and the prosecutor assigned to the case. The prospective trial judge said that he would impose the maximum sentence on any co-conspirators who fought extradition. The prosecutor stated on television that those who fought extradition would have a more difficult time in the long run as they would be serving longer sentences under more stringent conditions. The Court of Appeal dismissed the motion to adduce fresh evidence and dismissed the appeal.

Origin of the case:	Ontario
File No.:	26912
Judgment of the Court of Appeal:	August 20, 1998
Counsel:	Chris N. Buhr and Shayne Kert for the Appellant David Littlefield for the Respondent

26912 ***Howard Shulman c. Les États-Unis d'Amérique***

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?

Les États-Unis cherchaient à extrader l'appelant, un citoyen canadien, concernant des accusations incluant un complot en vue de commettre une fraude, relativement à des allégations selon lesquelles lui et d'autres, alors qu'ils étaient au Canada, auraient vendu illégalement des gemmes à des résidents des États-Unis en logeant des appels téléphoniques à partir du Canada. La GRC a mené une enquête d'envergure pour le compte des autorités canadiennes sur les circonstances ayant mené les Américains à porter des accusations, mais a finalement décidé que le Canada n'intenterait pas de poursuites contre l'appelant ou d'autres personnes. Une bonne partie de la preuve recueillie au cours de l'enquête de la police canadienne a été transmise aux autorités américaines, et les États-Unis se sont servis de certains de ces éléments dans la procédure d'extradition. Toute la preuve par affidavit faisant directement référence à l'appelant et aux activités illicites qui lui sont reprochées a été fournie par des allégués comploteurs qui faisaient eux-mêmes face à des accusations aux États-Unis, et qui avaient ultérieurement inscrit des plaidoyers de culpabilité pour certaines ou pour l'ensemble des accusations, mais leur peine n'avait pas été déterminée au moment de la préparation de leurs affidavits.

À l'audience d'extradition, l'appelant a demandé la divulgation de l'état des poursuites aux États-Unis étant donné qu'elles concernent chacune des personnes accusées de complot. L'appelant a également demandé la divulgation de toutes les discussions entre la police canadienne et les procureurs américains concernant la décision des autorités canadiennes de ne pas intenter de poursuites au Canada. L'appelant a également demandé la suspension de la procédure d'extradition ou à défaut, l'exclusion de la preuve par affidavit en vertu du par. 24(2) de la *Charte*.

Le juge d'extradition a rejeté les demandes de l'appelant et a ordonné que l'appelant soit incarcéré jusqu'à ce qu'il soit remis aux autorités américaines. L'appelant a interjeté appel de la décision du juge d'extradition devant la Cour d'appel. L'appelant a également déposé une requête pour présenter une nouvelle preuve. La requête visait certains commentaires du juge saisi du procès de l'appelant relativement aux accusations, advenant le cas où il soit extradé et que le procureur soit assigné au dossier. L'éventuel juge du procès a dit qu'il imposerait la peine maximale à tout comploteur qui contesterait l'extradition. Le procureur a dit à la télévision que ceux qui contesteraient l'extradition auraient la vie plus difficile en bout de ligne puisqu'ils purgeraient des peines plus longues dans des conditions plus rigoureuses. La Cour d'appel a rejeté la requête pour présenter de la nouvelle preuve et a rejeté l'appel.

Origine :	Ontario
N^{o} du greffe :	26912
Jugement de la Cour d'appel :	le 20 août 1998
Avocats :	Chris N. Buhr et Shayne Kert pour l'appelant David Littlefield pour l'intimé

26919 ***Paul Yick Wai Kwok v. The United States of America and Paul Yick Wai Kwok v. The Minister of Justice***

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.

The Appellant is a Canadian citizen. The Respondent United States of America alleges that the Appellant, while in Canada, supplied heroin from Canada on numerous occasions to co-conspirators who distributed that heroin within the United States, and that, on numerous other occasions while not supplying heroin, he played a critical role in bringing together customers and suppliers and received a share of the resulting profits.

A significant portion of the evidence in the American prosecution is in the form of intercepted telephone conversations involving various co-conspirators, including the Appellant, who himself remained in Canada throughout the relevant period. At the time of these interceptions by the American authorities, the Appellant was also the object of two authorizations to intercept private communications granted in Canada. As part of the investigation by the American authorities, the FBI sought and received information regarding the Appellant from the RCMP.

In September 1995, a grand jury in New York returned an indictment with one count of conspiracy to distribute and to possess with intent to distribute heroin, and in October 1995, a second count of conspiracy to import heroin into the United States. The Respondent United States of America sought the Appellant's extradition. Before the commencement of the extradition hearing, the Appellant sought unsuccessfully from Crown counsel in Canada, acting on behalf of the requesting state, complete disclosure of the Canadian police investigation including the applicable authorizations and affidavits used to obtain the authorizations.

The Appellant then brought an application for disclosure before the extradition judge and requested the disclosure of all of the Canadian investigation into the Appellant's alleged involvement in the trafficking of narcotics and all discussions between Canadian police and American investigative authorities. The extradition judge dismissed the application for disclosure. The extradition hearing proceeded and the Appellant was committed for surrender . Following his committal, the Appellant renewed his request for disclosure by letter to counsel acting on behalf of the Minister. His request was refused.

The Minister ordered the Appellant's immediate surrender. The Appellant appealed the extradition judge's committal order and sought judicial review of the Minister's decision in the Court of Appeal. The Court of Appeal dismissed both the appeal and the application for judicial review.

Origin of the case:	Ontario
File No.:	26919
Judgment of the Court of Appeal:	August 4, 1998
Counsel:	Chris N. Buhr and Shayne G. Kert for the Appellant David Littlefield and Kevin Wilson for the Respondents

26919 ***Paul Yick Wai Kwok c. Les États-Unis d'Amérique et Paul Yick Wai Kwok c. Le ministre de la Justice***

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?

L'appelant est un citoyen canadien. L'intimé, les États-Unis d'Amérique, allègue que l'appelant, alors qu'il était au Canada, a fourni de l'héroïne du Canada à plusieurs occasions à des comploteurs qui distribuaient l'héroïne aux États-Unis, et qu'à plusieurs reprises, lorsqu'il ne fournissait pas de l'héroïne, il jouait un rôle critique en agissant à titre d'intermédiaire entre les clients et les fournisseurs et recevait sa quote-part des profits ainsi générés.

La poursuite américaine repose en grande partie sur de la preuve issue de conversations téléphoniques interceptées; elles impliquent de nombreux comploteurs incluant l'appelant, qui lui, est demeuré au Canada durant toute la période en question. Au moment où les autorités américaines ont effectué ces interceptions, l'appelant faisait également l'objet de deux demandes d'autorisation d'interception de communications privées, qui avaient été accordées au Canada. Dans le cadre de l'enquête menée par les autorités américaines, le F.B.I. a obtenu de la G.R.C. de l'information concernant l'appelant.

Au mois de septembre 1995, une chambre des mises en accusation de l'État de New-York a retenu un chef d'accusation de complot pour distribution et pour possession avec l'intention de distribuer de l'héroïne, et au mois d'octobre 1995, un deuxième chef d'accusation de complot pour importation d'héroïne aux États-Unis. L'intimé, les États-Unis d'Amérique, a demandé l'extradition de l'appelant. Avant le commencement de l'audition de la procédure d'extradition, l'appelant a demandé en vain au substitut du procureur général du Canada, agissant pour le compte de l'État requérant, la divulgation complète de l'enquête policière canadienne incluant les autorisations applicables et les affidavits qui ont été utilisés afin d'obtenir les autorisations.

L'appelant a ensuite présenté une demande de divulgation de la preuve au juge d'extradition et a demandé la divulgation de la totalité de l'enquête menée au Canada sur la participation alléguée de l'appelant au trafic de stupéfiants et de toutes les discussions entre les organismes d'enquête des polices canadienne et américaine. Le juge d'extradition a rejeté la demande de divulgation. L'audience d'extradition a eu lieu et l'appelant a été incarcéré jusqu'à son extradition. À la suite de son incarcération, l'appelant a de nouveau demandé, par voie de lettre à l'avocat agissant pour le compte du ministre, la divulgation de l'information en question. Sa demande a été rejetée.

Le ministre a ordonné l'extradition immédiate de l'appelant. L'appelant a interjeté appel de l'ordonnance d'incarcération émise par le juge d'extradition et a présenté à la Cour d'appel une demande de contrôle judiciaire de la décision du ministre. La Cour d'appel a rejeté l'appel ainsi que la demande de contrôle judiciaire.

Origine :	Ontario
N° du greffe :	26919
Jugement de la Cour d'appel :	le 4 août 1998
Avocats :	Chris N. Buhr et Shayne G. Kert pour l'appelant David Littlefield et Kevin Wilson pour les intimés

27610 and 27774 ***Harry Cobb, Allen Grossman and James Tsioubris v. The United States of America***

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*.

The Appellants, Canadian citizens, along with several others, were indicted in Pennsylvania on charges of conspiracy to commit mail fraud and the substantive offences of mail fraud and wire fraud relating to the sale of gemstones to American residents. The Respondent United States of America requested the extradition of the Appellants. The extradition judge found that the Respondent had made out a *prima facie* case, but based on statements made by the prosecutor who was to prosecute them and the judge who was to try them, he refused to commit the Appellants.

The extradition judge stayed the proceedings. The Court of Appeal set aside the stay and remitted the matter to the extradition judge.

Origin of the case:	Ontario
File No.:	27610 and 27774
Judgment of the Court of Appeal:	September 13, 1999 with supplementary reasons on September 27, 1999
Counsel:	Paul D. Stern for the Appellant Cobb Brian H. Greenspan Q.C. for the Appellant Grossman James Stribopoulos for the Appellant Tsioubris Kevin Wilson for the Respondent

27610 et 27774 **Harry Cobb, Allen Grossman et James Tsioubris c. Les États-Unis d'Amérique**

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*.

Les appelants, des citoyens canadiens, ainsi que plusieurs autres personnes, ont été inculpés, en Pennsylvanie, de complot en vue de commettre de la fraude postale et de plusieurs infractions de fraude postale et de fraude par télécommunication relativement à la vente de pierres précieuses à des résidents américains. Les États-Unis d'Amérique intimés ont demandé l'extradition des appelants. Le juge d'extradition a estimé que les intimés avaient établi *prima facie* le bien-fondé des accusations, mais, à la lumière de déclaration faites par la personne chargée des poursuites et le juge qui entendrait le procès, il a refusé d'ordonner l'incarcération des appelants.

Le juge d'extradition a ordonné l'arrêt des procédures. La Cour d'appel a annulé cette décision et renvoyé l'affaire au juge d'extradition.

Origine:	Ontario
N^{o} du greffe:	27610 et 27774
Jugement de la Cour d'appel:	13 septembre, 1999, motifs supplémentaires déposés le 27 septembre, 1999
Avocats:	Paul D. Stern pour l'appelant Cobb Brian H. Greenspan, c.r. pour l'appelant Grossman James Stribopoulos pour l'appelant Tsioubris Kevin Wilson pour les intimés

This index includes applications for leave to appeal standing for judgment at the beginning of 2000 and all the applications for leave to appeal filed or heard in 2000 up to now.

Cet index comprend les requêtes en autorisation de pourvoi en délibéré au début de 2000 et toutes celles produites ou entendues en 2000 jusqu'à maintenant.

***01**	**Refused/Refusée**	***A**	**Applications for leave to appeal filed/Requêtes en autorisation de pourvoi produites**
***02**	**Refused with costs/Refusée avec dépens**		
***03**	**Granted/Accordée**		
***04**	**Granted with costs/Accordée avec dépens**	***B**	**Submitted to the Court/Soumises à la Cour**
***05**	**Discontinuance filed/Désistement produit**	***C**	**Oral Hearing/Audience**
		***D**	**Reserved/En délibéré**
***06**	**Others/Autres**		

This index includes appeals standing for judgment at the beginning of 2000 and all appeals heard in 2000 up to now.

Cet index comprend les pourvois en délibéré au début de 2000 et tous ceux entendus en 2000 jusqu'à maintenant.

***01 dismissed/rejeté**
***02 dismissed with costs/rejeté avec dépens**
***03 allowed/accueilli**
***04 allowed with costs/accueilli avec dépens**
***05 discontinuance/désistement**

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.

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

- 1999 -

OCTOBER - OCTOBRE

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

NOVEMBER - NOVEMBRE

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

- 2000 -

JANUARY - JANVIER

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

MARCH - MARS

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

M

Holidays:
Jours fériés:

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