

**SUPREME COURT
OF CANADA**



**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

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**APPLICATIONS FOR LEAVE TO
APPEAL FILED**

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

Mankeshwar Kurichh
Ravinder Sawhney

v. (28863)

**Financial Services Commission of Ontario, et al.
(Ont.)**

Joe Nemet
Financial Services Commission of Ontario
Legal Services

FILING DATE 19.10.2001

C.B.

C.B.

c. (28859)

**Le Centre jeunesse (DPJ) de Rimouski : Claude
Racine, et al (Qué.)**

Patrick Lebel
Lebel & Bernard

DATE DE PRODUCTION 15.10.2001

Denis LeBel

Mario Bouchard
Boucher & Associés

c. (28864)

Sa Majesté la Reine (Qué.)

Denis Dionne
P.g. du Québec

DATE DE PRODUCTION 25.10.2001

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

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

OCTOBER 29, 2001 / LE 29 OCTOBRE 2001

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

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

v. (28616)

M.B. (B.C.)

NATURE OF THE CASE

Tort law - Fiduciary duty - Negligence - What is the proper test for determining whether the Crown is liable on a no-fault basis for misconduct by foster parents who are not employees of the Government - Vicarious liability - Non-delegable duty - What is the relationship between the principles of no fault liability under a non-delegable duty of care and vicarious liability

PROCEDURAL HISTORY

May 3, 2000 Supreme Court of British Columbia (Levine J.)	Respondent's action for damages granted; Applicant ordered to pay damages totalling \$172,726.04
March 27, 2001 Court of Appeal for British Columbia (McEachern C.J.B.C. [dissenting], Prowse and Mackenzie JJ.A.)	Applicant's appeal dismissed
May 28, 2001 Supreme Court of Canada	Application for leave to appeal filed

E.D.G.

v. (28613)

Svein Hammer, The Board of School Trustees of School District No. 44 (North Vancouver) (B.C.)

NATURE OF THE CASE

Tort law - Fiduciary duty - Vicarious liability - Whether the Court of Appeal erred in holding that the Respondent school board did not breach its fiduciary duty to the Applicant - Non-delegable duty - Whether the Court of Appeal erred in holding that the Respondent school board did not breach its non-delegable duty to the Applicant

PROCEDURAL HISTORY

April 20, 1998 Supreme Court of British Columbia (Vickers J.)	Applicant's action against Respondent Board dismissed; judgment for the Applicant against Respondent Hammer in the amount of \$211,800
March 27, 2001 Court of Appeal of British Columbia (McEachern C.J.B.C., Prowse [<i>dissenting</i>] and Mackenzie J.J.A.)	Applicant's appeal dismissed
May 28, 2001 Supreme Court of Canada	Application for leave to appeal filed

K.L.B., P.B., H.B. and V.E.R.B.

v. (28612)

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

NATURE OF THE CASE

Tort law - Negligence - Breach of fiduciary duty - Vicarious liability - Non-delegable duty - Whether the Court of Appeal erred in holding that the Respondent did not breach its fiduciary duty to the Applicants - Limitations - Discoverability - Whether the Court of Appeal erred in holding that the Applicants' claims were time-barred, pursuant to the provisions of the *Limitation Act*, R.S.B.C., 1996, c. 266 - Damages - Whether the Court of Appeal for British Columbia erred in dismissing the Applicants' cross-appeal on damages

PROCEDURAL HISTORY

March 3, 1998 Supreme Court of British Columbia (Dillon J.)	Applicants' claim against Respondent granted
March 27, 2001 Court of Appeal for British Columbia (McEachern C.J.B.C., Prowse and Mackenzie J.J.A.)	Respondent's appeal allowed in part: Applicants' claims dismissed as statute barred; cross-appeal on damages dismissed
May 28, 2001 Supreme Court of Canada	Application for leave to appeal filed

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

Constance St-Hilaire

c. (28643)

Procureur général du Canada et le Conseil du Trésor du Canada (C.F.)

NATURE DE LA CAUSE

Code civil - Successions - Indignité successorale - *Loi sur la pension de la fonction publique*, L.R.C. 1985, c. P-36 - Interprétation - Articles 620 et 2443 du *Code civil du Québec* - La Cour d'appel fédérale est-elle compétente pour déclarer l'indignité successorale d'un individu en droit québécois - L'article 620 du *Code civil du Québec* écarte-t-il de son champ d'application le crime d'homicide involontaire coupable - Les mots «attenté à la vie» que l'on retrouve à l'art. 620 du *Code civil du Québec* ont-ils la même portée qu'à l'art. 2443 du *Code civil du Québec* en matière d'assurance - L'homicide involontaire coupable entraîne-t-il la déchéance du droit à l'admissibilité des prestations à titre de conjointe survivante?

HISTORIQUE PROCÉDURAL

Le 30 avril 1999
Cour fédérale du Canada (Section de première instance)
(Blais j.)

Demande de contrôle judiciaire accueillie; l'intimé le Procureur général du Canada, ordonné de remettre, par l'entremise de l'intimé le Conseil du trésor du Canada, les sommes d'argent dues à la demanderesse

Le 19 mars 2001
Cour d'appel fédérale
(Desjardins, Décary [dissident en partie] et Létourneau
jj.c.a.)

Appel accueilli

Le 8 juin 2001
Cour suprême du Canada

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

Metro Richelieu 2000 Inc.

c. (28605)

The Standard Life Assurance Company (Qué.)

NATURE DE LA CAUSE

Législation — Interprétation — Code civil — Droit commercial — Contrats — Servitude réelle — Clause de non concurrence — Opposabilité de la clause de non concurrence — *Code civil du Québec* (« C.c.Q. »), L.Q. 1991, ch. 64, art. 1177 et 1191 — La Cour d'appel a-t-elle erré en concluant que la servitude en litige ne constituait pas une servitude réelle valide et opposable à l'intimée et qu'il était impossible de prévoir une clause de non concurrence ou d'exclusivité dans le cadre d'une servitude réelle? — La Cour d'appel a-t-elle erré en négligeant de tenir compte de l'art. 1177 C.c.Q. qui dispose qu'une servitude peut obliger le propriétaire du fonds servant de s'abstenir d'exercer certains droits inhérents à la propriété? — La Cour d'appel a-t-elle erré en concluant qu'une servitude doit nécessairement prévoir un droit d'usage sur le fonds servant? — La Cour d'appel a-t-elle erré en ne tenant pas compte de l'art. 1191 C.c.Q., prévoyant la possibilité d'assortir une servitude d'un terme, et en omettant de considérer que le caractère permanent de la servitude en litige résulte du fait qu'elle doit subsister pendant le terme prévu indépendamment de l'aliénation du fonds servant ou du fonds

dominant? — La Cour d'appel a-t-elle omis de considérer les réalités économiques sous-tendant la création de telles servitudes, l'état du droit sur cette question dans les juridictions canadiennes de *common law*, l'évolution du droit français sur cette question et d'énoncer les motifs d'intérêt public interdisant la reconnaissance de telles servitudes, sous forme de servitude réelle, personnelle ou de droit réel innomé?

HISTORIQUE PROCÉDURAL

Le 8 février 1999
Cour supérieure du Québec
(Courville, j.c.s.)

Demande de l'intimée accueillie ; la clause de non concurrence entre le Centre commercial Victoriaville Ltée et 3105555 Canada Inc du 8 mai 1996 déclarée une obligation de nature purement personnelle qui est inopposable à l'intimée

Le 21 mars 2001
Cour d'appel du Québec
(Robert, Forget et Rochette, jj.c.a.)

Appel accueilli à seules fins de déclarer la clause de non concurrence inopposable à l'intimée et à ses ayants droits et que l'intimée est propriétaire de l'immeuble délaissé depuis le 20 mai 1997

Le 18 mai 2001
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Michel Couture

c. (28548)

Le ministre du Revenu national (C.F.)

NATURE DE LA CAUSE

Droit du travail - Assurance-chômage - *Loi sur l'assurance-chômage*, L.R.C. 1985, c. U-1, articles 3(1)a) et 3(2)d) - La Cour d'appel fédérale a-t-elle erré en refusant d'accueillir la demande de contrôle judiciaire du demandeur?

HISTORIQUE PROCÉDURAL

Le 5 novembre 1998
Cour canadienne de l'impôt
(Lamarre j.c.c.i.)

Appel de la décision du ministre du Revenu national qui a décidé que le demandeur n'avait pas occupé un emploi assurable aux termes de la *Loi sur l'assurance-chômage* rejeté

Le 27 février 2001
Cour d'appel fédérale
(Desjardins, Létourneau et Noël jj.c.a.)

Demande de contrôle judiciaire rejetée

Le 18 mai 2001
Cour suprême du Canada
(LeBel j.)

Requête en prorogation de délai pour présenter une demande d'autorisation d'appel accordée

Le 22 juin 2001
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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

**Ronald G. Stevens, The Law Society of Alberta, Neil Wittmann, Barbara Romaine, Alan MacLeod, Philip
Lister, Lindsay MacDonald, David C. Maxwell, Peter Freeman, James McLeod and David Guenter**

v. (28514)

Jeanette Dechant (Alta.)

NATURE OF THE CASE

Procedural law - Striking out a statement of claim - Absolute privilege - Immunity - Respondent commencing action against Applicant Law Society and some of its employees and representatives and against a lawyer for defamation, malicious prosecution, abuse of power, abuse of office and *Charter* breaches relating to the handling of a complaint against her - Whether communications with the Law Society of Alberta associated with the investigation of complaints are absolutely privileged.

PROCEDURAL HISTORY

November 24, 1999
Court of Queen's Bench of Alberta
(Cairns J.)

Application by Stevens to strike the Respondent's
Statement of Claim dismissed

November 26, 1999
Court of Queen's Bench of Alberta
(Cairns J.)

Application by remaining Applicants to strike the
Respondent's Statement of Claim dismissed with the
exception of claims pursuant to the *Charter*; application for
stay of Respondent's action denied

February 13, 2001
Court of Appeal of Alberta
(Conrad, McFadyen JJ.A. and Bensler J.)

Appeal dismissed; cross-appeal from the order striking the
Charter claims allowed

April 12, 2001
Supreme Court of Canada

Application for leave to appeal filed

June 20, 2001
Supreme Court of Canada

Application for an extension of time to file a Response and
an application for leave to cross-appeal filed by
Respondent

Janice Lynn Brimacombe, Clinton Brimacombe and by his Guardian Ad Litem and Janice Lynn Brimacombe

v. (28666)

Dr. J. David Mathews (B.C.)

NATURE OF THE CASE

Procedural law - Courts - Appellate jurisdiction with respect to trial judge's findings of fact - Standard of palpable or overriding error - Court of Appeal finding that findings of fact by trial judge amounting to palpable error - Whether appropriate standard of appellate review of a trial judge's findings of fact should be replaced, modified, or enhanced - Whether standard enunciated in *Toneguzzo-Norvell v. Burnaby Hospital*, [1994] 1 S.C.R. 114, is being ignored or misapplied and requires the renewed emphasis of this Court.

PROCEDURAL HISTORY

October 29, 1999 Supreme Court of British Columbia (Hutchinson J.)	Applicant's action allowed; judgement for the Applicant in the amount of \$ 2,578,091.00
March 21, 2001 Court of Appeal of British Columbia (McEachern, Cumming, and Hall JJ. A.)	Appeal allowed; new trial ordered; appeal and cross-appeal on damages dismissed
June 20, 2001 Supreme Court of Canada	Application for leave to appeal filed

Steven Romans

v. (28806)

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

NATURE OF THE CASE

Administrative Law – Judicial Review – Immigration Law – Applicant convicted of various offences – Inquiry conducted by the Appeal Division of the Immigration Refugee Board – Deportation Order issued against the Applicant – *Immigration Act*, R.S.C., c. I-2, s. 27 – Did the Federal Court of Appeal err in law in concluding that the Board had properly exercised its discretion in this case in accordance with the principles of fundamental justice and in accordance with Canada's international obligations as set out in the *International Covenant on Civil and Political Rights*? – Did the Federal Court of Appeal err in law in concluding that the deportation of this Applicant would not “shock the conscience” and would not violate the principles of fundamental justice?

PROCEDURAL HISTORY

June 11, 2001 Federal Court Trial Division (Dawson J.)	Application for judicial review of deportation order pursuant to para 70(1)(b) of the <i>Immigration Act</i> , dismissed
September 18, 2001	Appeal dismissed; deportation order stayed pending leave

Federal Court of Appeal
(Décary, Noël and Sexton JJ.A.)

application to the Supreme Court of Canada

September 28, 2001
Supreme Court of Canada

Application for leave to appeal filed

Michelin Tires (Canada) Ltd.

v. (28711)

Her Majesty The Queen (F.C.)

NATURE OF THE CASE

Commercial law - Taxation - Unjust enrichment - Constructive trust - Revenue Canada audit discovering overpayment of sales tax - Statute limiting reimbursement for overpayment to four years - Applicant claiming refund for overpayment for a year beyond the four-year limit based on constructive trust and unjust enrichment - Whether the Applicant's claim for monetary relief based on a constructive trust constitutes a basis for unjust enrichment and invokes equitable relief - What is the interrelationship between statutory limitation periods and the tri-partite analysis of a claim based on unjust enrichment - When does a limitation period begin to run if it is determined that a statutory limitation period applies to a claim for unjust enrichment, which is denied - Whether the *Excise Tax Act* at the time when the mistakes were made contained a complete statutory code effectively ousting the equitable jurisdiction of the courts.

PROCEDURAL HISTORY

November 26, 1998
Federal Court of Canada, Trial Division
(Reed J.)

Applicant's action for unjust enrichment dismissed

May 7, 2001
Federal Court of Appeal
(Rothstein, Evans, Malone JJ.A.)

Appeal dismissed

August 3, 2001
Supreme Court of Canada

Application for leave to appeal filed

**JUDGMENTS ON APPLICATIONS
FOR LEAVE**

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

NOVEMBER 1, 2001 / LE 1^{ER} NOVEMBRE 2001

28696 Joseph P. Melanson - v. - Her Majesty the Queen (Ont.) (Criminal)

CORAM: The Chief Justice, Iacobucci and Bastarache JJ.

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

La demande de prorogation de délai est accordée. La demande d'audition orale et la demande d'autorisation d'appel sont rejetées.

NATURE OF THE CASE

Criminal Law - Procedural Law - Trial - Sentencing - Applicant charged with attempted murder and aggravated sexual assault - Jury unable to reach unanimous verdict on counts as charged but return guilty verdict of aggravated assault - Mistrial declared on counts as charged and verdict of guilty of aggravated assault entered - Second trial commences on both counts as originally charged but aggravated sexual assault charge dismissed as *autrefois convict* - Second jury finds applicant guilty of attempted murder - Dangerous offender application dismissed in attempted murder proceedings but new hearing ordered on appeal - Double jeopardy - Jury proceedings - Dangerous offender proceedings - Whether Court of Appeal erred in finding that a verdict by a jury is not a conviction or a final disposition or that a matter is not *res judicata* when the underlying issue is adjudicated or that applicant was not tried and convicted twice for the same act over the same legal issue or failed to address whether assault can be a lesser-included charge of attempted murder - Whether Court of Appeal erred in failing to address that the first trial judge did not respond satisfactorily to a jury question on the meaning of intent or in not finding that a jury instruction on intent may have been misleading or that the second trial judge likely created the dilemma cautioned against in *Houghton v. R.* 93 CCC (3d) 99 - Whether Court of Appeal for Ontario err by deeming thoughts to be actual behavior, allowing double sentencing or by not addressing whether the assault rose to the level of an aggravated assault.

PROCEDURAL HISTORY

April 1, 1998 Ontario Court (General Division) (Roberts J.)	Conviction: aggravated assault
June 22, 1998 Ontario Court (General Division) (McLean J.)	Conviction: attempted murder
September 23, 1999 Ontario Court (General Division) (McLean J.)	Dangerous offender application dismissed; Sentence for attempted murder - incarceration for two years less one day, no credit for time served
September 28, 1999 Ontario Court (General Division) (Roberts J.)	Stay of aggravated assault proceedings
March 14, 2001 Court of Appeal for Ontario (McMurtry C.J., Carthy and Laskin JJ.A.)	Applicant's appeals from convictions dismissed; Crown's appeals from sentence and aggravated assault proceedings

dismissed; Crown's appeal seeking new dangerous
offender hearing allowed

June 29, 2001
Court of Appeal for Ontario
(Moldaver J.A.)

Order staying March 14, 2001 order, with conditions

July 26, 2001
Supreme Court of Canada

Application for leave to appeal and extension of time filed

28746 **Abdel Moneim Mousa and Barbara Aweryn - v. - City of Coquitlam** (B.C.) (Civil)

CORAM: The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Municipal law - Zoning by-law - Building constructed as a five-plex in area zoned for single family dwellings - Respondent owners enjoined to bring the building into compliance with the by-law - Whether municipality's entitlement to statutory injunction is absolute or subject to limitations - Whether prosecution under the by-law was selective - Whether duty of fairness owed to the Applicants was violated

PROCEDURAL HISTORY

May 24, 2000
Supreme Court of British Columbia
(Morrison J.)

Respondent's application for a declaration that the Applicants were in breach of zoning by-law granted: Applicants ordered to bring building into compliance with by-law

May 16, 2001
Court of Appeal of British Columbia
(Donald, Low and Levine JJ.A.)

Appeal dismissed.

August 15, 2001
Supreme Court of Canada

Application for leave to appeal filed

28662 **Albert Carbone, Cathy Horvath and Kit Kat Bar & Grill, Restaurants and Clubs Inc. - v. - Relco Inc., Ernest Luwish and City of Toronto** (Ont.) (Civil)

CORAM: The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is dismissed with costs to the respondents Relco Inc. and the City of Toronto.

La demande d'autorisation d'appel est rejetée avec dépens en faveur des intimés Relco Inc. et la Ville de Toronto.

NATURE OF THE CASE

Procedural law - Appeal - Contempt of court - Variation of consent judgment - What is the extent to which a court can amend or vary consent judgments, absent either a further consent of the parties or specific statutory authority - When can a court rectify a consent judgment, where rectification is not sought by the parties, no record respecting rectification is before the court, and the judge in first instance did not purport to rectify the consent judgment.

PROCEDURAL HISTORY

September 16, 1999
Superior Court of Justice
(Wilson J.)

Consent judgment giving effect to Minutes of Settlement resulting from Respondent Relco Inc.'s action against Applicants

November 30, 2000
Superior Court of Justice
(Rivard J.)

Respondent Relco Inc.'s motion to find Applicants Albert Carbone and Cathy Horvath and Respondent City in contempt of consent judgment dismissed; Motion to vary consent judgment granted; Applicants' cross-motion to set aside judgment dismissed

April 20, 2001
Court of Appeal for Ontario
(Finlayson, Carthy and Weiler JJ.A.)

Appeal dismissed

June 18, 2001
Supreme Court of Canada

Application for leave to appeal filed

28589 **Jean Smith - c. - Air Canada - et - Commission de la santé et de la sécurité du travail** (Qué.)
(Civile)

CORAM: Les juges L'Heureux-Dubé, Arbour et LeBel

La demande d'autorisation d'appel est rejetée avec dépens en faveur de l'intimée.

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

NATURE DE LA CAUSE

Droit du travail - Procédure - Responsabilité civile - Accidents du travail - Prescription - Négligence - *Loi sur les accidents du travail et les maladies professionnelles*, L.R.Q. c. A-3.001 - *Code civil du Québec*, L.Q. 1991, c.64, article 2925 - La Cour d'appel a-t-elle erré en concluant que l'appel du demandeur était irrecevable et voué à l'échec?

HISTORIQUE PROCÉDURAL

Le 13 août 1996 Commission de la santé et de la sécurité du travail (CSST)	Réclamation à titre de rechute, récurrence ou aggravation d'une lésion subie en 1978, rejetée
Le 18 mars 1997 Bureau de révision des Laurentides	Décision de la CSST confirmée
Le 19 février 1999 Commission des lésions professionnelles (Lacroix, Commissaire)	Appel rejeté
Le 11 octobre 2000 Cour supérieure du Québec (Fraiberg j.c.s.)	Requête de l'intimée en irrecevabilité à l'encontre de l'action du demandeur accueillie
Le 2 avril 2001 Cour d'appel du Québec (Mailhot, Deschamps et Rochette jj.c.a.)	Appel rejeté; requête du demandeur pour permission de présenter une nouvelle preuve, rejetée
Le 10 mai 2001 Cour suprême du Canada	Demande d'autorisation d'appel déposée

28582 **Pavage Rolland Fortier Inc. - c. - Caisse Populaire Desjardins de la Plaine - et - Le Forum de Lanaudière Inc., Forum de la Plaine Inc. et Bunny Lankowitch** (Qué.) (Civile)

CORAM: Les juges L'Heureux-Dubé, Arbour et LeBel

La demande d'autorisation d'appel est rejetée avec dépens en faveur de l'intimée.

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

NATURE DE LA CAUSE

Code civil - Enrichissement injustifié - Droits hypothécaires - Prise en paiement - Interprétation - Articles 1493 à 1496 et 2783 du *Code civil du Québec* - La Cour d'appel a-t-elle erré en considérant qu'une norme juridique pouvait constituer une justification à l'enrichissement aux dépens d'autrui, alors que cette norme n'est pas comprise dans les cas de justification prévus à l'article 1494 C.c.Q.? - La Cour d'appel a-t-elle erré en considérant que la norme juridique contenue dans l'article 2783 C.c.Q. pouvait constituer une justification à l'enrichissement dont profite un créancier hypothécaire qui prend en paiement un immeuble amélioré par un tiers appauvri au sens des articles 1493 à 1496 C.c.Q.?

HISTORIQUE PROCÉDURAL

Le 5 mars 1998
Cour supérieure du Québec
(Trudel j.c.s.)

Requête en irrecevabilité accueillie; action rejetée

Le 12 mars 2001
Cour d'appel du Québec
(Rothman, Proulx et Pidgeon jj.c.a.)

Appel rejeté

Le 11 mai 2001
Cour suprême du Canada

Demande d'autorisation d'appel déposée

28520 **Sadasivarao Byrapaneni - v. - Curtis Raymond and Krista Bennett** (N.B.) (Civil)

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

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Commercial law - Contract - Lease of residential unit - Apartment abandoned part way through lease - Leaseholders finding another couple for apartment - Landlord renting another vacant apartment to other couple - Landlord seeking rent for balance of term of lease - Whether a lease is a contract or an estate in land - Whether "lost sale" principle applicable - Obligation of a landlord to mitigate loss.

PROCEDURAL HISTORY

December 20, 1999
Court of Queen's Bench of New Brunswick (Small
Claims Court)
(Garnett J.)

Damages of \$3000 awarded to the Applicant;
Respondents jointly liable

February 1, 2001
Court of Appeal of New Brunswick
(Turnbull, Deschênes and Robertson JJ.A.)

Appeal allowed; judgment set aside; judgment entered
dismissing the Applicant's small claim action

April 2, 2001
Supreme Court of Canada

Application for leave to appeal filed

28668 **Norman Jurchison - v. - Her Majesty the Queen - and between - Norway Insulation Inc. - v. - Her Majesty the Queen** (FC) (Civil)

CORAM: Gonthier, Major and Binnie JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Taxation - Income tax - Evidence - Evidence obtained in violation of s. 8 of *Canadian Charter of Rights and Freedoms* excluded in criminal proceedings - Tax Court judge granting taxpayers' preliminary motions under Rule 58 of *Tax Court of Canada Rules (General Procedure)* to have evidence excluded in reassessment appeals as well - Whether Federal Court of Appeal erred in concluding that the failure to grant a *Charter* remedy to the Applicants now would not impinge upon the fairness of the tax trial - Whether Federal Court of Appeal erred in failing to conclude that administration of justice would be brought into further disrepute by admission of evidence in subsequent civil proceeding.

PROCEDURAL HISTORY

November 26, 1999 Tax Court of Canada (Bowie J.T.C.C.)	Applicants' motion for order vacating reassessments dismissed; Applicants' motion to exclude evidence granted; Respondent's motion for an order compelling Applicant Jurchison to attend for discovery dismissed
April 26, 2001 Federal Court of Appeal (Isaac, Sexton and Malone JJ.A.)	Appeals regarding order excluding evidence and order that Applicant Jurchison not be examined for discovery allowed; cross-appeal dismissed
June 25, 2001 Supreme Court of Canada	Application for leave to appeal filed

28508 **Banque Nationale De Paris (Canada) and The Great Atlantic & Pacific Company of Canada Limited - v. - Canadian Imperial Bank of Commerce and Zitter, Siblin & Associates** (Ont.) (Civil)

CORAM: Gonthier, Major and Binnie JJ.

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

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

NATURE OF THE CASE

Procedural Law - Estoppel - Privity of Interest - Applicants are creditors of bankrupt company - Respondent bank creditor of same company - Applicants commence action in Ontario against respondent bank to determine priority of security interests - Another creditor commences a second action in Quebec against respondent bank based on same bankruptcy and applicants added as mis-en-cause to Quebec proceedings - Ontario action stayed until final decision in Quebec proceedings - Applicants then continue Ontario action and seek to amend statement of claim in order to claim for improvident disposition and an accounting of assets - Whether decisions in Quebec proceeding prevent amendments to statement of claim in Ontario action - Whether Court of appeal erred in interpretation of the term "privity" as part of the doctrine of *res judicata* - Whether Court of Appeal erred in application of the doctrine of *res judicata* - Whether Court of appeal failed to apply the constitutional doctrine of full faith and credit.

PROCEDURAL HISTORY

January 24, 2000 Superior Court of Justice (Nordheimer J.)	Amendments to statement of claim allowed in part; Claim for accounting of assets disposed of during informal liquidation allowed; Claim of improvident disposition of assets not allowed.
January 12, 2001 Court of Appeal for Ontario (Weiler, Rosenberg and MacPherson JJ.A.)	Amendments to statement of claim dismissed
April 17, 2001 Supreme Court of Canada	Applications for time extension and leave to appeal filed

28674 **Marcus Richardson - v. - Her Majesty the Queen** (B.C.) (Criminal)

CORAM: Gonthier, Major and Binnie JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Canadian *Charter* - Criminal - Criminal Law - Narcotics - Evidence - Seizure - Applicant stopped at traffic roadblock set up by police officers to check licenses, insurance and for impaired drivers - Police officer detects odour of marihuana emanating from applicant's vehicle - Officer searches person of accused, interior and trunk of vehicle, and bags in trunk of vehicle - Small quantity of marihuana and cash found on applicant's person - Large quantity of marihuana and cash found in bags in trunk - Conclusion at trial that applicant's ss. 8 and 10(b) *Charter* rights infringed - Evidence admitted under s. 24(2) of *Charter* - Whether Court of Appeal erred in characterizing the evidence as non-conscriptive - Whether majority of the Court of Appeal erred in concluding that *R. v. Mellinthin* no longer the law in the circumstances - Whether Court of Appeal erred in failing to exclude evidence in relation to both counts.

PROCEDURAL HISTORY

June 14, 1999 Provincial Court of British Columbia (Paradis P.C.J.)	Conviction: one count of possession and one count of possession for the purpose of trafficking
January 26, 2000 Provincial Court of British Columbia (Paradis J.)	Conditional discharge and 3 months probation on possession charge, suspended sentence and 6 months probation on trafficking charge
May 3, 2001 Court of Appeal of British Columbia (McEachern C.J., Levine, and Hall [dissenting in part] JJ.A.)	Appeal from conviction dismissed
June 25, 2001 Supreme Court of Canada	Motion to extend time to serve and file notice and Notice of Appeal as of Right filed
August 2, 2001 Supreme Court of Canada	Application for leave to appeal filed
August 27, 2001 Supreme Court of Canada (Arbour J.)	Motion to extend time to June 25, 2001 to serve and file Notice of Appeal as of Right granted

28735 **Taiwo Adun - v. - Her Majesty the Queen** (Ont.) (Criminal)

CORAM: Gonthier, Major and Binnie JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Evidence - Whether law relating to identification evidence misapplied by lower courts - Unreasonable verdict - Whether lower courts erred misapplying the law in relation to the unreasonable verdict.

PROCEDURAL HISTORY

November 17, 1999 Ontario Court (Provincial Division) (White J.)	Convictions: uttering a forged document, breach of recognizance and fraud under \$5,000
June 13, 2001 Court of Appeal for Ontario (Finlayson, Weiler and Goudge JJ.A.)	Appeal against conviction allowed in part: conviction for attempting to utter a forged document substituted for conviction of uttering a forged document
August 13, 2001 Supreme Court of Canada	Application for leave to appeal filed

28598 **N.H.S. - v. - Her Majesty the Queen** (Ont.) (Criminal)

CORAM: Gonthier, Major and Binnie JJ.

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

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

NATURE OF THE CASE

Criminal Law (Non Charter) - Young offenders - Manslaughter - Sufficiency of trial judge's reasons - Whether the Court of Appeal for Ontario erred in failing to hold that the learned trial judge's reasons for judgment were inadequate in respect of the Applicant's conviction for manslaughter

PROCEDURAL HISTORY

May 3, 2000 Ontario Court of Justice (Youth Court) (Weseloh J.)	Applicant convicted of manslaughter contrary to s.236(b) of the <i>Criminal Code</i>
February 8, 2001 Court of Appeal for Ontario (Charron, Feldman and MacPherson JJ.A.)	Appeal against conviction dismissed
May 15, 2001 Supreme Court of Canada	Application for leave to appeal filed
August 31, 2001 Supreme Court of Canada Registrar	Motion for an extension of time to file and or serve the response granted

28732 **Brian Thomas Pratt - v. - The Board of Governors of the University of Lethbridge** (Alta.) (Civil)

CORAM: Gonthier, Major and Binnie JJ.

The Respondent's Motion to Strike portions of the applicant's reply is dismissed, the Motion to Expedite the decision on the application for leave to appeal is granted and the application for leave to appeal is dismissed with costs.

La requête de l'intimé visant la suppression de certaines parties de la réplique du requérant est rejetée, la requête visant à obtenir rapidement une décision sur la demande d'autorisation d'appel est accueillie et la demande d'autorisation d'appel est rejetée avec dépens.

NATURE OF THE CASE

Labour law - Labour relations - Collective agreement - University professor denied tenure - University attempting to hold tenure rehearing - Rehearing process not provided for in collective agreement - Whether essential character of dispute arises from interpretation, application, administration or violation of collective agreement so as to oust jurisdiction of courts - Whether conduct of University calls into question integrity of labour relations system warranting judicial intervention.

PROCEDURAL HISTORY

May 23, 2000 Court of Queen's Bench of Alberta (Rowbotham J.)	Respondent's application to strike Applicant's statement of claim granted
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May 15, 2001 Court of Appeal of Alberta (Fraser C.J.A. [dissenting], Hunt and Paperny JJ.A.)	Appeal dismissed
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August 14, 2001 Supreme Court of Canada	Application for leave to appeal filed
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October 2, 2001 Supreme Court of Canada	Motion to expedite application for leave to appeal filed
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28680 **Alexander Center Industries Limited - v. - Kenneth McNamara** (Ont.) (Civil)

CORAM: Gonthier, Major and Binnie JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Labour law - Master and servant - Wrongful dismissal - Damages - Double recovery - Whether disability payments received by former employee during notice period should be deducted from damages award for wrongful dismissal

PROCEDURAL HISTORY

May 24, 2000 Ontario Superior Court of Justice (Hennessy J.)	Respondent awarded 281,066.08 plus interest in damages for wrongful dismissal
April 30, 2001 Court of Appeal for Ontario (McMurtry C.J.O., Borins and MacPherson JJ.A.)	Applicant's appeal against quantum of damages dismissed
June 29, 2001 Supreme Court of Canada	Application for leave to appeal filed

28665 **Cornell Engineering Company Limited - v. - 978011 Ontario Ltd.** (Ont.) (Civil)

CORAM: **Gonthier, Major and Binnie JJ.**

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Commercial law - Contracts - Person experienced in business signing 11-page contract after reading only the first page - Respondent seeking to rely on termination clause - Whether parties to a contract are to be held to their bargain, or whether, in appropriate circumstances, a court of equity may intervene to relieve against an unjust or unconscionable bargain - What circumstances suffice to permit a court of equity to grant rectification for a unilateral mistake? - What is the appropriate standard of review to be used by an appellate court with respect to an exercise of equitable discretion by a trial judge?

PROCEDURAL HISTORY

October 19, 1998 Ontario Court of Justice (Cullity J.)	Respondent's action to enforce termination clause dismissed, termination clause struck out; Applicant's counterclaim dismissed
April 20, 2001 Court of Appeal for Ontario (Weiler, Rosenberg and MacPherson JJ.A.)	Appeal allowed; judgment granted in accordance with the termination clause in the Services Agreement
June 19, 2001 Supreme Court of Canada	Application for leave to appeal filed

27010 **Albertine et Pierre Benge (mère et père), Mireille (soeur), Olivier (frère), Elliot (frère) et Maryse (soeur), (au nom de Dorothée-Belthilde Benge, MNR 077 92 62 décédée le 27 novembre 1990) - c. - Hôpital Général de Toronto et Drs. N. M. Lazar, John Muscedere, W. H. Francombe et J. R. Maurer** (Ont.) (Civile)

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

La demande de réexamen de la demande d'autorisation d'appel est rejetée avec dépens.

The motion for reconsideration of the application for leave to appeal is dismissed with costs.

28344 **Eric Scheuneman - v. - Attorney General of Canada (Natural Resources Canada)** (FC) (Civil)

CORAM: Gonthier, Major and Binnie JJ.

The application for reconsideration is dismissed.

La demande de réexamen est rejetée.

22.10.2001

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the factum and book of authorities of the intervener the Attorney General for Ontario

Requête en prorogation du délai imparti pour signifier et déposer les mémoire et recueil de jurisprudence et de doctrine de l'intervenant le procureur général de l'Ontario

Deborah Smith

v. (27844)

Attorney General of Canada (F.C.)

GRANTED / ACCORDÉE Time extended to October 5, 2001.

22.10.2001

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the book of authorities of the intervener la Commission des droits de la personne et des droits de la jeunesse

Requête en prorogation du délai imparti pour signifier et déposer le recueil de jurisprudence et de doctrine de l'intervenante la Commission des droits de la personne et des droits de la jeunesse

Louise Gosselin

c. (27418)

Le procureur général du Québec (Qué.)

GRANTED / ACCORDÉE Time extended to October 17, 2001.

23.10.2001

Before / Devant: ARBOUR J.

Motion to file a reply factum on appeal

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

Patrick Berry, et al.

v. (27992)

Chris Pulley, et al. (Ont.)

GRANTED / ACCORDÉE The motion for an order permitting the appellants to file a factum and supplemental brief of authorities which responds to the factum of the intervener, Canadian Labour Congress and replies to the factum of the respondents Pulley, Fraser, Jenson and Griffith is granted.

23.10.2001

Before / Devant: ARBOUR J.

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

Requête en prorogation du délai de signification et de dépôt de la demande d'autorisation

OSFC Holdings Ltd.

v. (28860)

Her Majesty the Queen (F.C.)

GRANTED / ACCORDÉE Time extended to December 14, 2001.

24.10.2001

Before / Devant: THE REGISTRAR

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

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

Christopher James Clay

v. (28189)

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

GRANTED / ACCORDÉE The motion to extend the time to serve and file the appellant's factum to forty-five (45) days after the decision on the motion to state Constitutional Questions is granted.

25.10.2001

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the book of authorities of the intervener the Canadian Association of Statutory Human Rights Agencies "Cashra"

Requête en prorogation du délai imparti pour signifier et déposer le recueil de jurisprudence et de doctrine de l'intervenante l'Association canadienne des commissions et conseil des droits de la personne

Louise Gosselin

c. (27418)

Le procureur général du Québec (Qué.)

GRANTED / ACCORDÉE Time extended to October 25, 2001.

25.10.2001

Before / Devant: ARBOUR J.

Motion for leave to intervene

Requête en autorisation d'intervention

BY/PAR: Attorney General of Ontario

IN/DANS: Chee K. Ling

v. (28315)

Her Majesty the Queen (B.C.)

GRANTED / ACCORDÉE

UPON APPLICATION by the Attorney General of Ontario for leave to intervene in the above appeal;

AND HAVING READ the material filed ;

IT IS HEREBY ORDERED THAT:

The motion for leave to intervene of the applicant Attorney General of Ontario is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length.

The request to present oral argument is deferred to a date following receipt and consideration of the written arguments of the parties and the interveners.

The intervener shall not be entitled to adduce further evidence or otherwise to supplement the record of the parties.

Pursuant to Rule 18(6) the intervener shall pay to the appellant and respondent any additional disbursements occasioned to the appellant and respondent by the intervention.

25.10.2001

Before / Devant: ARBOUR J.

Motions for leave to intervene**Requêtes en autorisation d'intervention**

BY/PAR: The Canadian Council of Churches
and The Evangelical Fellowship of
Canada
Canadian Environmental Law
Association, Greenpeace Canada,
Canadian Association of Physicians
for the Environment, Action Group
on Erosion, Technology and
Concentration and the Canadian
Institute for Environmental Law and
Policy
Sierra Club of Canada

IN/DANS: The Commissioner of Patents

v. (28155)

The President and Fellows of Harvard
College (F.C.)

GRANTED / ACCORDÉES

UPON APPLICATION by The Canadian Council of Churches and The Evangelical Fellowship of Canada, the Canadian Environmental Law Association, Greenpeace Canada, Canadian Association of Physicians for the Environment, Action Group on Erosion, Technology and Concentration and the Canadian Institute for Environmental Law and Policy and the Sierra Club of Canada for leave to intervene in the above appeal;

AND HAVING READ the material filed ;

IT IS HEREBY ORDERED THAT:

1. The motion for leave to intervene of the applicants The Canadian Council of Churches and The Evangelical Fellowship of Canada is granted and the applicants shall be entitled to serve and file a joint factum not to exceed 20 pages in length.
2. The motion for leave to intervene of the applicants Canadian Environmental Law Association, Greenpeace Canada, Canadian Association of Physicians for the Environment, Action Group on Erosion, Technology and Concentration and the Canadian Institute for Environmental Law and Policy is granted and the applicants shall be entitled to serve and file a joint factum not to exceed 20 pages in length.
3. The motion for leave to intervene of the applicant Sierra Club of Canada is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length.

The request to present oral argument is deferred to a date following receipt and consideration of the written arguments of the parties and the interveners.

The interveners shall not be entitled to adduce further evidence or otherwise to supplement the record of the parties.

Pursuant to Rule 18(6) the interveners shall pay to the appellant and respondent any additional disbursements occasioned to the appellant and respondent by the interventions.

The request by the respondent for permission to file additional factums and for additional time for oral argument is dismissed, without prejudice to the respondent applying after receipt of the interveners factums.

25.10.2001

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the factum and book of authorities of the intervener Coalition of B.C. First Nations

Norman Sterriah, on behalf of all members of the Ross River Dena Council Band, et al.

v. (27762)

Her Majesty the Queen in Right of Canada, et al. (Y.T.)

GRANTED / ACCORDÉE Time to serve and file the factum extended to September 14, 2001, *nunc pro tunc*.
Time to serve and file the book of authorities extended to September 19, 2001, *nunc pro tunc*.

**APPEALS HEARD SINCE LAST ISSUE
AND DISPOSITION**

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

29.10.2001

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

Louise Gosselin

c. (27418)

**Le procureur général du Québec
(Qué.) (Civile) (Autorisation)**

Carmen Palardy, Georges Massol et Stéphanie Bernstein pour l'appelante.

Vincent Calderhead and Martha Jackman for the intervener Charter Committee on Poverty Issue.

David Matas for the intervener Rights & Democracy.

Gwen Brodsky and Rachel Cox for the intervener National Association of Women and the Law.

Hélène Tessier pour l'intervenante Commission des droits de la personne des droits de la jeunesse.

Chantal Masse et Fred Headon pour l'intervenante Association canadienne des commissions et conseil des droits de la personne.

André Fauteux et Isabelle Harnois pour l'intimé.

Janet E. Minor and Peter Landmann for the intervener Attorney General for Ontario.

Gabriel Bourgeois pour l'intervenant le procureur général du Nouveau-Brunswick.

Sarah Macdonald for the intervener the Attorney General of British Columbia.

Margaret Unsworth for the intervener the Attorney General for Alberta.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Canadian Charter of Rights and Freedoms - Social law - Right to equality - Right to security of the person - Sections 15(1) and 7 of the *Canadian Charter* - Right to financial assistance - Sections 45 and 49 of the *Charter of Human Rights and Freedoms*, R.S.Q., c. C-12 - Since the Court of Appeal found that s. 29(a) of the *Regulation respecting social aid*, R.R.Q., 1981, c. A-16, r. 1, violated the right to equality protected by s. 15 of the *Canadian Charter*, is this violation demonstrably justified under s. 1? - Whether s. 29(a) of the *Regulation* violates the right to security of the person protected by s. 7 of the *Canadian Charter* - If there is a violation of

Nature de la cause:

Charte canadienne des droits et libertés - Droit social - Droit à l'égalité - Droit à la sécurité de la personne - Articles 15(1) et 7 de la *Charte canadienne* - Droit à l'assistance financière - Articles 45 et 49 de la *Charte des droits et libertés de la personne*, L.R.Q., ch. C-12 - La Cour d'appel, ayant conclu que l'art. 29a) du *Règlement sur l'aide sociale*, R.R.Q., 1981, ch. A-16, r. 1, portait atteinte au droit à l'égalité garanti par l'art. 15 de la *Charte canadienne*, cette atteinte est-elle justifiée the right to security of the person, is this violation justified under s. 1 of the *Canadian Charter*? - If there is a violation of a right protected by the *Canadian*

Charter, what relief may be sought by the Appellant under s. 24 and 52 of this *Charter*? - Whether s. 29(a) of the *Regulation* violates s. 45 of the *Charter of Human Rights and Freedoms* - If s. 29(a) of the *Regulation* violates s. 45 of the *Charter of Human Rights and Freedoms*, what remedy is appropriate under s. 49 of this *Charter*?

au sens de l'article premier? - L'article 29a) du *Règlement* porte-t-il atteinte au droit à la sécurité de la personne garanti par l'art. 7 de la *Charte canadienne*? - S'il y a atteinte au droit à la sécurité de la personne, cette atteinte est-elle justifiée au sens de l'article premier de la *Charte canadienne*? - S'il y a violation d'un droit garanti par la *Charte canadienne*, quel est le remède pouvant être recherché par l'appelante en vertu des art. 24 et 52 de cette *Charte*? - L'article 29 a) du *Règlement* contrevient-il à l'art. 45 de la *Charte des droits et libertés de la personne*? - Si l'art. 29a) du *Règlement* contrevient à l'art. 45 de la *Charte des droits et libertés de la personne*, quel est le remède approprié en vertu de l'art. 49 de cette *Charte*?

30.10.2001

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

Patrick Berry, et al.

Frank J. C. Newbould, Q.C., Joseph M. P. Weiler and Benjamin T. Glustein for the appellants.

v. (27992)

Steve Waller and Eric Pietersma for the respondents
Chris Pulley, et al.

Chris Pulley, et al. (Ont.) (Civil) (By Leave)

Brian Shell and Barry E. Wadsworth for the respondent
Kent Hardisty.

John Baigent for the intervener Canadian Labour Congress.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Labour law - Labour Relations - Action for breach of contract - Members of union suing other members of union for breach of contract and seeking remedy of damages - Does a union member who breaches the union constitution incur personal liability for breach of contract to another union member who suffers damage as a result.

Nature de la cause:

Droit du travail - Relations de travail - Action pour rupture de contrat - Des membres d'un syndicat poursuivent d'autres membres du syndicat pour rupture de contrat et demandent des dommages-intérêts - Un membre d'un syndicat qui contrevient à la constitution du syndicat engage-t-il sa responsabilité personnelle pour rupture de contrat envers un autre membre du syndicat à qui cette rupture cause un préjudice?

31.10.2001

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

Her Majesty the Queen

v. (27717)

Ford Ward (Nfld.) (Civil) (By Leave)

David Meadows and Paul Adams for the appellant.

Clayton C. Ruby for the intervener International Fund for Animal Welfare Inc.

V. Randell J. Earle, Q.C. and Stephen Willar for the respondent.

Alain Gingras pour l'intervenant le procureur général du Québec.

S.H. Rutwind for the intervener the Attorney General for Alberta.

No one appeared for the intervener the Attorney General of Newfoundland, written submission only by Harold J. Porter.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Constitutional law - Division of legislative powers - Whether s. 27 of the *Marine Mammal Regulations* is within the legislative authority of the Parliament of Canada as being legislation pertaining to the fisheries under s. 91(12) of the *Constitution Act, 1867* - Whether s. 27 of the *Marine Mammal Regulations* is within the legislative authority of the Parliament of Canada as being legislation pertaining to the criminal law under s. 91(27) of the *Constitution Act, 1867*.

Nature de la cause:

Droit constitutionnel - Répartition des compétences législatives - L'art. 27 du *Règlement sur les mammifères marins* relève-t-il de la compétence du Parlement du Canada à titre de loi relative aux pêcheries au sens du par. 91(12) de la *Loi constitutionnelle de 1867*? - L'art. 27 du *Règlement sur les mammifères marins* relève-t-il de la compétence du Parlement du Canada à titre de loi criminelle au sens du par. 91(27) de la *Loi constitutionnelle de 1867*?

DEADLINES: MOTIONS

DÉLAIS: REQUÊTES

BEFORE THE COURT:

Pursuant to Rule 23.1 of the *Rules of the Supreme Court of Canada*, the following deadlines must be met before a motion before the Court can be heard:

Motion day : **December 3, 2001**
Service : November 9, 2001
Filing : November 16, 2001
Respondent : November 23, 2001

DEVANT LA COUR:

Conformément à l'article 23.1 des *Règles de la Cour suprême du Canada*, les délais suivants doivent être respectés pour qu'une requête soit entendue par la Cour :

Audience du : **3 décembre 2001**
Signification : 9 novembre 2001
Dépôt : 16 novembre 2001
Intimé : 23 novembre 2001

DEADLINES: APPEALS

DÉLAIS: APPELS

The Winter Session of the Supreme Court of Canada will commence January 14, 2002.

La session d'hiver de la Cour suprême du Canada commencera le 14 janvier 2002.

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:

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:

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.

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

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.

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 du mémoire de l'appelant.

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.

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 du mémoire de l'intimé, sauf ordonnance contraire.

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

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

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

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

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.

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

- 2001 -

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

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

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

- 2002 -

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

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

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

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

Sittings of the court:
Séances de la cour:

Motions:
Requêtes:

Holidays:
Jours fériés:



18 sitting weeks / semaines séances de la cour

79 sitting days / journées séances de la cour

9 motion and conference days / journées requêtes, conférences

2 holidays during sitting days / jours fériés durant les sessions