

**SUPREME COURT
OF CANADA**



**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

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

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**APPLICATIONS FOR LEAVE TO
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3088-7459 Québec Inc., et al.
José James O'Reilly

c. (28451)

Antonio Pereira (Qué.)
Martine Riendeau
Stein & Stein

DATE DE PRODUCTION 9.3.2001

Gordon Wayne Paris
David E. Harris

v. (28455)

Her Majesty the Queen (Ont.)
Michal Fairburn
A.G. for Ontario

FILING DATE 13.3.2001

Jeanette Dechant
Jeanette Dechant

v. (28292)

Zahra Coulter, et al. (Alta.)
Pat Peacock
Peacock, Linder & Halt

FILING DATE 15.3.2001

Provigo Distribution Inc., et al.
Louise Boutin
Pâquet, Galardo & Nantais

c. (28460)

Ville de St-Léonard, et al. (Qué.)
Steve Cadrin
Bouchart-d'Orval Cadrin

DATE DE PRODUCTION 16.3.2001

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

Abdur Rashid Khan
Peter Leask, Q.C.
Leask Bahen

v. (28466)

Her Majesty the Queen (B.C.)
John Gordon
A.G. of British Columbia

FILING DATE 16.3.2001

Joseph Alan Sidorov
Douglas D. Merchant
Gowling Lafleur Henderson LLP

v. (28461)

Her Majesty the Queen (Alta.)
Eric Tolppanen
A.G. of Alberta

FILING DATE 16.3.2001

The Corporation of the City of Ottawa
Jerald Bellomo
The Corporation of the City of Ottawa

v. (28469)

Ken Goudie, et al. (Ont.)
Emilio S. Binavince
Binavince Smith

FILING DATE 19.3.2001

Patricia B. MacCulloch
Patricia B. MacCulloch

v. (28463)

**Stewart McInnes & McInnes Cooper &
Robertson a registered partnership (N.S.)**
John Merrick, Q.C.
Merrick Holm

FILING DATE 19.3.2001

Gilles Boies
Martin Tremblay

c. (28468)

Sa Majesté la Reine (Qué.)

Céline Cyr
Procureur général du Québec

DATE DE PRODUCTION 19.3.2001

John Guy Bradford

Marie Henein
Greenspan, Henein and White

v. (28474)

Her Majesty the Queen (Ont.)

Laura Hodgson
A.G. of Ontario

FILING DATE 20.3.2001

Ecu-Line N.V.

H. Peter Swanson
Campney & Murphy

v. (28472)

Z.I. Pompey Industrie, et al. (F.C.)

George Pollack
Sproule, Pollack

FILING DATE 23.3.2001

Fernand Ethier

Fernand Ethier

c. (28473)

Marie Duchesne Tremblay (Qué.)

Sylvie Breton
Pelletier, Breton

DATE DE PRODUCTION 26.3.2001

Gilberte Dupuis

Élaine Bissonnette, c.r.

c. (28471)

Jean Themens (Qué.)

Josée Dussault

DATE DE PRODUCTION 29.3.2001

**Syndicat des chauffeurs de la Société de transport
de la Ville de Laval (CSN)**

Mario Évangéliste
Sauvé et Roy

c. (28475)

**Gilles Ferland, en sa qualité d'arbitre de griefs
(Qué.)**

Gilles Ferland

DATE DE PRODUCTION 30.3.2001

**Alberta & N.W.T. (District of MacKenzie)
Building and Construction Trades Council on
behalf of its affiliated local unions**

Robert R. Blakely
Blakely & Dushenski

v. (28476)

Ledcor Industries Ltd., et al. (Alta.)

David J. Ross, Q.C.
McLennan Ross

FILING DATE 30.3.2001

The Chippewas of Sarnia Band

Earl A. Cherniak, Q.C.
Lerner & Associates

v. (28365)

Attorney General of Canada, et al. (Ont.)

Charlotte Bell, Q.C.
A.G. of Canada

FILING DATE 30.3.2001

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

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

APRIL 9, 2001 / LE 9 AVRIL 2001

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

Richard Freeman

v. (28373)

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

NATURE OF THE CASE

Criminal law (Non Charter) - Sexual assault - Evidence - Credibility - Whether trial judge misapprehended material parts of the evidence which went to her assessment of the credibility of the complainant and the accused - Whether Court of Appeal's failure to order a new trial in conflict with jurisprudence.

PROCEDURAL HISTORY

June 24, 1997 Supreme Court of British Columbia (Dillon J.)	Applicant convicted of three counts of sexual assault contrary to s. 246.1 of the <i>Criminal Code</i>
March 19, 1999 British Columbia Court of Appeal (McEachern C.J.B.C., Lambert and Esson JJ.A.)	Appeal against conviction on Count 2 dismissed; appeal against conviction on Counts 3 and 4 allowed and acquittal entered
February 16, 2000 British Columbia Court of Appeal (McEachern C.J.B.C., Lambert and Esson JJ.A.)	Applicant's application for an order setting aside the March 19, 1999 decision on Count 2, dismissed
January 24, 2001 Supreme Court of Canada	Application for leave to appeal filed

Kyle Brendon Stroshein

v. (28392)

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

NATURE OF THE CASE

Criminal law - Sentencing - Custodial and conditional sentences - Armed robbery involving small amount of cash - Applicant, notwithstanding a previous conviction, given conditional sentence involving monitored house arrest, curfew and community service - Co-accused in separate proceedings given custodial sentence - Whether court of Appeal should have replaced conditional sentence with custodial sentence without considering all the provisions articulated in s. 742.1 of the *Criminal Code* - Whether conditional sentence demonstrably unfit when it was equivalent to the term of incarceration substituted.

PROCEDURAL HISTORY

May 15, 2000
Provincial Court of Saskatchewan
(Kolenick J.)

Applicant sentenced to a 18-month conditional sentence
with 6 months of electronic monitoring

February 9, 2001
Court of Appeal for Saskatchewan
(Tallis, Vancise [*dissenting*] and Jackson JJ.A.)

Respondent's appeal against sentence allowed; sentence set
aside; imposition of a 10-month sentence

February 28, 2001
Supreme Court of Canada

Application for leave to appeal filed

The Commissioner of Patents

v. (28155)

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

NATURE OF THE CASE

Property Law - Patentability of complex life forms - Whether the Federal Court of Appeal erred in law in holding that claims 1 to 12 in the patent application at issue amount to a "composition of matter" within the meaning of the term "invention" as defined in section 2 of the *Patent Act* - Whether the Federal Court of Appeal erred in law in holding that claims 1 to 12 amount to an "invention" under s. 2 of the *Patent Act* - Whether the Federal Court of Appeal erred in law in holding that the Respondent is entitled to a patent for the entire "non-human mammal" described in claims 1 to 12, even though the presence of an oncogene is the only aspect of the animal for which the Respondent is responsible - Whether the Federal Court of Appeal erred in law in holding that the applicable standard of review was not satisfied in this case.

PROCEDURAL HISTORY

April 21, 1998
Federal Court of Canada, Trial Division
(Nadon J.)

Appeal dismissed from a decision rendered by the
Commissioner of Patents refusing to grant a patent

August 3, 2000
Federal Court of Appeal
(Linden, Isaac [*dissenting*] and Rothstein JJ.A.)

Decisions of the trial judge and the Commissioner of
Patents quashed; matter remitted to the Commission with
the direction to grant a patent covering claims 1 to 12 of the
patent application

October 2, 2000
Supreme Court of Canada

Application for leave to appeal filed

Her Majesty the Queen

v. (28273)

Thomas Allen and Edward Milewski (F.C.)

NATURE OF THE CASE

Taxation - Assessment - Statutes - Interpretation - Whether the test of “reasonable expectation of profit” as it applies in the context of partnership is to be applied at the partner level or the partnership level - Whether financing charges incurred by a partner are to be considered in determining whether that individual partner has a source of income - Section 20(1)(c) of the *Income Tax Act*, R.S.C. 1985 (5th Supp.) c. 1.

PROCEDURAL HISTORY

August 12, 1999 Tax Court of Canada (Bowman J.T.C.C.)	Appeals allowed; Assessments referred back to the Minister of National Revenue for reconsideration and reassessment
September 26, 2000 Federal Court of Appeal (Létourneau, Rothstein, and McDonald JJ.A.)	Appeal dismissed
November 24, 2000 Supreme Court of Canada	Application for leave to appeal filed

Diane Boucher

v. (28278)

Gaston Doiron, Roger Doiron (N.B.)

NATURE OF THE CASE

Civil Procedure - Procedural Law - Evidence - Whether findings at trial were based upon credibility - Whether interjections of trial judge caused unfairness.

PROCEDURAL HISTORY

November 18, 1999 Court of Queen’s Bench of New Brunswick (Creaghan, J.)	Damages of \$298,906 awarded to applicant for personal injuries in motor vehicle accident
October 5, 2000 Court of Appeal of New Brunswick (Ryan, Turnbull and Drapeau, JJ.A.)	Appeal allowed in part, damages for past loss of housekeeping increased; Cross-appeal dismissed
November 30, 2000	Application for leave to appeal filed

Supreme Court of Canada

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

Michel Blondin

c. (28366)

Sa Majesté la Reine (Crim.)(Qué.)

NATURE DE LA CAUSE

Droit criminel - Preuve - Possession de pornographie infantile - Immoralité sexuelle là où demeure un enfant - Agression sexuelle - Infractions commises par un médecin dans le cadre d'une relation médecin-patient - La Cour d'appel a-t-elle erré en refusant de remettre l'audition de la cause et de considérer la question de la constitutionnalité de l'article 163.1(4)a) du *Code criminel* nonobstant une demande à cet effet - La Cour d'appel a-t-elle erré en refusant de conclure que le témoignage d'un expert était nécessaire pour démontrer qu'un préjudice avait été subi par un enfant de 30 mois concernant l'article 172(1) du *Code* - La Cour d'appel a-t-elle erré en refusant de suivre les principes établis dans l'arrêt *R. c. W.(D.)* déclarant que ceux-ci n'étaient pas sacro-saints.

HISTORIQUE PROCÉDURAL

Le 16 février 1998
Cour du Québec
(Doyon j.c.q.)

Déclaration de culpabilité: agression sexuelle contrairement à l'al. 271(1)a) du *Code criminel*; immoralité sexuelle là où demeure un enfant contrairement au par.172(1); et possession de pornographie juvénile contrairement à l'al. 163.1(4)a)

Le 8 novembre 2000
Cour d'appel du Québec
(Rothman, Chamberland et Forget jj.c.a.)

Appel du verdict et des peines rejeté

Le 8 janvier 2001
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Claude Maheu

c. (28283)

Sa Majesté la Reine (Crim.)(Qué.)

NATURE DE LA CAUSE

Droit criminel - Procédure pénale - Amendement de l'acte d'accusation - Preuve pénale - Déclarations antérieures incompatibles - Admissibilité - La Cour d'appel a-t-elle erré en accueillant seulement en partie l'appel du demandeur?

HISTORIQUE PROCÉDURAL

Le 15 octobre 1996
Cour du Québec
(De Pokomandy j.c.q.)

Appelant trouvé coupable de cinq chefs d'accusation en vertu de l'article 212(4) du *Code criminel* et d'un chef d'accusation en vertu de l'article 153(1)b) du *Code criminel*

Le 29 septembre 2000
Cour d'appel du Québec
(Brossard, Nuss et Pidgeon jj.c.a.)

Appel accueilli en partie; déclarations de culpabilité cassées relativement aux premier et deuxième chefs d'accusation

Le 21 décembre 2000
Cour suprême du Canada
(Bastarache j.)

Requête en prorogation du délai pour signifier et déposer une demande d'autorisation d'appel accueillie

Le 18 janvier 2001
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Aimé Vachon

c. (28098)

Commission des lésions professionnelles et Denys Beaulieu (Qué.)

NATURE DE LA CAUSE

Droit du travail – Accident de travail – Base de calcul de l'indemnité de remplacement du revenu – Le travailleur étant un Indien inscrit, doit-on exclure l'impôt fédéral et provincial de la base de calcul? – Révision judiciaire d'une décision de la Commission d'appel en matière de lésions professionnelles – Disposition privative – *Loi sur les accidents de travail et les maladies professionnelles*, L.R.Q., c. A-3.001, art. 45, 62, 63, 67, 144 et 429.59 – Impôt sur le revenu – Exemption fiscale pour les Indiens inscrits vivant et travaillant sur le territoire d'une réserve – *Loi sur les Indiens*, L.R.C., c. I-5, art. 87 et 88 – *Charte canadienne des droits et libertés*, art. 15 – Égalité devant la loi – La Cour d'appel a-t-elle erré en rejetant l'appel du demandeur?

HISTORIQUE PROCÉDURAL

Le 21 décembre 1995
Cour supérieure
(Blondin, j.c.s.)

Requête en révision judiciaire à l'encontre d'une décision de la Commission d'appel en matière de lésions professionnelles rejetée

Le 5 juin 2000
Cour d'appel
(Brossard, Delisle [dissident] et Robert, jj.c.a.)

Appel rejeté

Le 30 août 2000
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Raymond Piché

c. (28107)

Sa Majesté la Reine telle que représentée par le Conseil du Trésor

ET ENTRE :

Joanne Granger

c.

Sa Majesté la Reine telle que représentée par le Conseil du Trésor

ET ENTRE :

Geneviève Cousineau

c.

Sa Majesté la Reine telle que représentée par le Conseil du Trésor

ET ENTRE :

Sylvie Boileau Di Palma

c.

Sa Majesté la Reine telle que représentée par le Conseil du Trésor

ET ENTRE :

Max Weder

c.

Sa Majesté la Reine telle que représentée par le Conseil du Trésor (C.F.)

NATURE DE LA CAUSE

Droit du travail - Arbitrage - Contrôle judiciaire - Législation - Interprétation - La Cour d'appel fédérale a-t-elle erré en concluant que le régime des avocats non syndiqués de la fonction publique fédérale était d'application essentiellement discrétionnaire tant de la part du Secrétariat du Conseil du Trésor que des administrateurs généraux des ministères et autres organismes de la fonction publique fédérale où ces derniers travaillent? - La Cour d'appel fédérale a-t-elle erré en concluant que la suspension de ce régime de rémunération ne constituait pas une modification de ce régime et partant, n'était pas interdite par la *Loi sur les restrictions salariales dans le secteur public*? - La Cour d'appel fédérale a-t-elle erré en interprétant ce régime de rémunération de façon restrictive sans tenir compte de son objectif et de son économie et du fait que les requérants ont reçu de leur employeur des cotes de rendement qui auraient dû leur donner droit à des augmentations au mérite ou à des primes de rendement? - La Cour d'appel fédérale a-t-elle erré en interprétant ce régime de rémunération sans tenir compte adéquatement du contexte des mots qui le composent et de l'intention du Conseil du Trésor qui l'a édicté pour le bénéfice de ses employés? - La Cour d'appel fédérale a-t-elle erré en interprétant ce régime de rémunération sans tenir compte des principes que cette Cour a édictés dans l'arrêt *Wells c. Terre-Neuve*, [1999] 3 R.C.S. 1999, dans l'arrêt *Wallace c. United Grain Growers Ltd. (Public Press)*, [1997] 3 R.C.S. 701, et dans l'arrêt *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 R.C.S. 27?

HISTORIQUE PROCÉDURAL

Le 19 mars 1998
Cour fédérale du Canada, Section de première instance
(Lutfy j.c.f.)

Demandes de contrôle judiciaire rejetées

Le 2 juin 2000
Cour d'appel fédérale
(Richard, Desjardins et Décary jj.c.a.)

Appels rejetés

Le 1er septembre 2000
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Howard LeLacheur

v. (28181)

Flora Burt, Shelly Dawn Seward (N.S.)

NATURE OF THE CASE

Procedural Law - Limitation Period - Whether the discoverability rule applies to the one-year limitation period under the Nova Scotia *Fatal Injuries Act* and its companion statutes across Canada - *Fatal Injuries Act*, R.S.N.S. 1989, c. 163

PROCEDURAL HISTORY

November 2, 1999
Supreme Court of Nova Scotia, Trial Division
(Wright J.)

Application for order to disallow the limitation defence dismissed; Respondents' action dismissed

July 28, 2000
Nova Scotia Court of Appeal
(Glube C.J.N.S., Chipman and Cromwell JJ.A.)

Appeal allowed in part; order dismissing Respondents' action set aside

October 2, 2000
Supreme Court of Canada

Application for leave to appeal filed

December 5, 2000
Supreme Court of Canada
(LeBel J.)

Motion to extend time granted

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

James Thomas Eakin

v. (28288)

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

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Right to counsel - Whether the Applicant was provided with his right to counsel of choice - Whether the Applicant was adequately informed of the offence - Search and seizure - Whether the Applicant provided an adequate waiver of his right when police requested a blood sample - Evidence - Identification evidence - Whether the identification evidence was reliable - DNA evidence - Whether the DNA evidence was of sufficient probative value to be relied upon by the trial judge - Sentencing - Dangerous offender - Whether the dangerous offender designation is to be applied only to habitual criminals - Whether the Applicant's failure to accept responsibility should have been considered as a factor in declaring the Applicant a dangerous offender

PROCEDURAL HISTORY

June 30, 1993
Ontario Court (General Division)
(Hamilton J.)

Conviction: sexual assault and robbery; Sentence:
Applicant declared a dangerous offender and sentenced to
an indeterminate period of incarceration

May 16, 2000
Court of Appeal for Ontario
(Charron, Moldaver, and MacPherson JJ.A.)

Appeals against conviction and sentence dismissed

December 18, 2000
Supreme Court of Canada

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

Bombardier Inc. and Bombardier Services Group

v. (28414)

Public Service Alliance of Canada and Frontec Corporation (F.C.)

NATURE OF THE CASE

Administrative Law - Judicial review - Labour Law - Collective Agreement and Successor Rights provisions within the *Canada Labour Code* upon privatization - The Canada Industrial Relations Board's decision confirmed PSAC as the successor bargaining agent for the employees performing work for the Applicant but issued certification orders containing a terminal date. The Federal Court of Appeal concluded that the Board's decision was made without jurisdiction as its certification orders should not have contained express expiry dates and was otherwise patently unreasonable - Whether the Federal Court of Appeal erred in its determination of the collective bargaining obligations, pursuant to section 47 and 47.1 of the *Canada Labour Code*, inherited by an employer who takes over work formerly performed by the Government of Canada - Whether the Federal Court of Appeal erred in characterizing the Board's decision as being outside its jurisdiction - Whether the Federal Court of Appeal applied the required standard of review.

PROCEDURAL HISTORY

December 20, 2000
Federal Court of Appeal
(Linden, McDonald and Malone JJ.A.)

Respondent's (PSAC) application for judicial review of the January 14, 2000 Canada Industrial Relations Board decision, allowed; matter remanded to CIRB for redetermination

February 19, 2001
Supreme Court of Canada

Application for leave to appeal filed

February 19, 2001
Supreme Court of Canada

Application for Stay of proceeding filed

Attorney General of Canada

v. (28304)

Paul Juliar, Karen Juliar and Juliar Holdings Ltd. (Ont.)

NATURE OF THE CASE

Commercial law - Contracts - Rectification - Taxation - Income tax - Trial judge permitting rectification of corporate transaction so as to avoid liability for immediate payment of income tax - Court of Appeal affirming decision - Whether Court of Appeal erred in extending principles of rectification by permitting agreement to be rewritten not because agreement incorrectly set down terms of contract, but because consequences of arrangement were undesirable.

PROCEDURAL HISTORY

September 23, 1999
Superior Court of Justice
(Cameron J.)

Rectification of corporate transaction permitted so as to avoid liability for immediate payment of income tax

October 6, 2000
Court of Appeal for Ontario
(Austin, Goudge and MacPherson JJ.A.)

Appeal dismissed

December 6, 2000
Supreme Court of Canada

Application for leave to appeal filed

February 6, 2001
Supreme Court of Canada
(Bastarache J.)

Motion to extend time granted

Greenforco Holding Corporation

v. (28297)

Yonge-Merton Developments Limited (Ont.)

NATURE OF THE CASE

Property law - Real Estate - Agreements of purchase and sale - Approval periods - Agreement of purchase and sale grants purchaser a thirty day approval period - Vendor alleges oral agreement amended written terms of agreement after execution - Vendor refuses to close according to written terms and purchaser refuses to close according to alleged amendment - What legal results should occur from actions of a purchaser during an approval period - Whether a purchaser should be fixed with knowledge of matters that come to the purchaser's attention during approval period.

PROCEDURAL HISTORY

June 25, 1999 Superior Court of Justice (Ferrier J.)	Application to rectify agreement and to declare agreement null and void dismissed
October 6, 2000 Court of Appeal for Ontario (Carthy, Goudge and Simmons JJ.A.)	Appeal dismissed
December 1, 2000 Supreme Court of Canada	Application for leave to appeal filed

Fellowes, McNeil

v. (28199)

Kansa General International Insurance Company Ltd. and Kansa Canadian Management Services Inc. (Ont.)

NATURE OF THE CASE

Commercial law - Insurance - Solicitor's negligence - Defence counsel's failure to alert insurer of possible coverage issue - Whether defence counsel retained by insurer is obliged to advise insurer of potential coverage issue where counsel has a contractual duty to defend but is not yet on the record for the insured - Partnership - Contracts - Whether failure by lawyer signing application for insurance to disclose potential claim for professional liability extinguishes coverage for all partners and exposes them to personal liability - Procedural law - Evidence - Whether legal experts can give opinion evidence on duty owed by lawyer to client and whether insurer is obliged to defend and indemnify insured

PROCEDURAL HISTORY

October 14, 1999 Superior Court of Justice (MacDonald J.)	Applicant ordered to pay the Respondent the sum of \$6,064,838.00, pre-judgment interest plus costs for two phases of the counterclaim
September 11, 2000	Appeal dismissed in the <i>Little</i> mini-trial; appeal allowed in

Court of Appeal for Ontario
(Weiler, Rosenberg, Goudge JJ.A.)

the *Uniroyal* mini-trial; Respondent awarded two-thirds of its costs.

November 9, 2000
Supreme Court of Canada

Application for leave to appeal filed

Axa Boreal Assurances

v. (28238)

The Co-Operators Insurance Company (Ont.)

NATURE OF THE CASE

Commercial law - Insurance - Statutory Accident Benefits Schedule - Named insured - Interpretation to be given ss. 268(5) and (5.2) of the *Insurance Act*, R.S.O. 1990, c. I.8 - Interpretation and application to be given s. 91(4) of *Statutory Accident Benefits Schedule for Accidents after December 31, 1993 and before November 1, 1996*, O. Reg. 776/93.

PROCEDURAL HISTORY

July 5, 1999
Superior Court of Justice
(Glass J.)

Appeal against Arbitrator's decision awarding statutory accident benefits in favour of Mr Hounsell, dismissed

September 25, 2000
Court of Appeal for Ontario
(Carthy, Laskin and Goudge JJ.A.)

Appeal dismissed

November 15, 2000
Supreme Court of Canada

Application for leave to appeal filed

28.3.2001

Before / Devant: THE CHIEF JUSTICE

Motion to state a constitutional question

Requête pour énoncer une question constitutionnelle

Ralph Dick, et al.

v. (27641)

Her Majesty the Queen, et al. (F.C.)

GRANTED / ACCORDÉE Notices of intervention are to be filed on or before May 4, 2001.

1. Can the British Columbia *Statute of Limitations*, R.S.B.C. 1936, and subsequent enactments and amendments and the British Columbia *Limitation Act*, R.S.B.C. 1979, together with the *Federal Court Act*, R.S.C. 1985, c. F-7, particularly s. 39, constitutionally apply to extinguish any right and title of an Indian Band to the Campbell River and Quinsam Indian Reserves in British Columbia, or any right to compensation in lieu of such right or title?
2. Can British Columbia Order in Council No. 1036, dated July 28, 1938, constitutionally apply to alter any pre-existing Band entitlement to the Campbell River and Quinsam Indian Reserves in British Columbia?
1. La *Statute of Limitations* de la Colombie-Britannique, R.S.B.C. 1936, et ses versions et modifications subséquentes et la *Limitation Act* de la Colombie-Britannique, R.S.B.C. 1979, interprétées conjointement avec la *Loi sur la Cour fédérale*, L.R.C. 1985, ch. F-7, en particulier l'art. 39, peuvent-elles, selon la Constitution, s'appliquer de façon à éteindre des droits et titres que détient une bande indienne sur les réserves indiennes de Campbell River et de Quinsam en Colombie-Britannique ou le droit à une indemnisation à la place de ces droits ou titres?
2. Le décret 1036 du 28 juillet 1938 de la Colombie-Britannique peut-il, selon la Constitution, s'appliquer de façon à modifier tout droit préexistant d'une bande sur les réserves indiennes de Campbell River et de Quinsam en Colombie-Britannique?

2.4.2001

Before / Devant: ARBOUR J.

Motion for leave to intervene

Requête en autorisation d'intervention

BY/PAR: Attorney General of Ontario

IN/DANS: The Vancouver Sun

v. (28190)

Her Majesty the Queen, et al.
(Crim.)(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 respondents any additional disbursements occasioned to the appellant and respondents by the intervention.

3.4.2001

Before / Devant: BINNIE J.

Miscellaneous motion

Autre requête

La Procureure générale du Québec

c. (28417)

Laurent Laroche, et al. (Qué.)

DISMISSED / REJETÉE

La requête en annulation du sursis accordé par M. le juge Deblois, le 6 mars 2001, est rejetée.

Compte tenu de la nature interlocutoire des présentes procédures, il est toutefois ordonné que, dès que la demande d'autorisation aura été déposée le 9 avril 2001 ou avant cette date, et que toute réponse ou réplique des parties aura été déposée dans le délai habituel prescrit par les règles, l'examen de la demande d'autorisation par notre Cour soit fait rapidement.

The application to set aside the stay granted by Mr. Justice Deblois on March 6, 2001, is dismissed.

In light of the interlocutory nature of these proceedings, however it is ordered that once the leave application is filed on or before April 9, 2001, and any response or reply by the parties filed as required within the usual times permitted under the rules, consideration of the leave application by the Court be and the same is hereby expedited.

3.4.2001

Before / Devant: THE DEPUTY REGISTRAR

Motion to extend the time in which to serve and file the response of the respondent Canadian Airlines Corporation

Requête en prorogation du délai de signification et de dépôt de la réponse de l'intimée Canadian Airlines Corporation

Resurgence Asset Management LLC

v. (28388)

Canadian Airlines Corporation, et al (Alta.)

GRANTED / ACCORDÉE Time extended to March 23, 2001.

3.4.2001

Before / Devant: ARBOUR J.

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

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

René Pearson

c. (28427)

Sa Majesté la Reine (Crim.)(Qué.)

GRANTED / ACCORDÉE Délai prorogé au 15 février 2001.

3.4.2001

Before / Devant: IACOBUCCI J.

Motion for extension of time and leave to intervene

Requête visant à obtenir une prorogation de délai et l'autorisation d'intervenir

BY/PAR: Canadian Association of Provincial Judges

IN/DANS: Her Majesty the Queen in Right of the Province of New Brunswick as represented by The Minister of Finance, et al.

v. (27722)

Ian P. Mackin, et al. (N.B.)

GRANTED / ACCORDÉE

UPON APPLICATION by the Canadian Association of Provincial Court Judges for an extension of time and for leave to intervene in the above appeal;

AND HAVING READ the material filed ;

IT IS HEREBY ORDERED THAT:

The motion for an extension of time and for leave to intervene of the applicant Canadian Association of Provincial Judges is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length to be served and filed on or before April 27, 2001.

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 respondents any additional disbursements occasioned to the appellant and respondents by the intervention.

4.4.2001

Before / Devant: BINNIE J.

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

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

Nick Bozza, et al.

v. (28364)

Quik-Commissions Inc. (Ont.)

DISMISSED / REJETÉE

This is an application for an extension of time within which to file an application for leave to appeal. On May 3rd, 2000 summary judgment was granted in this matter in favour of the Respondent Quik-Commissions Inc. by judgment in which the motions' judge stated:

“The behaviour of the defendant [i.e. the present applicant] throughout this litigation has been to delay, to avoid, to obfuscate... I consider it to be an affront to the administration of Justice if this matter was allowed to proceed beyond this point.”

An appeal to the Court of Appeal was dismissed on November 28, 2000. We are now approaching the 1st anniversary of the Trial Judgment.

The applicants have not filed any material that would suggest that there is any merit in the proposed leave application. There is nothing before me, therefore, that would justify prolonging this action. The application for an extension of time is therefore dismissed.

4.4.2001

Before / Devant: THE DEPUTY REGISTRAR

Motion to extend the time in which to serve and file the book of authorities of the intervener Canadian Council of Churches

Requête en prorogation du délai imparti pour signifier et déposer le recueil de jurisprudence et de doctrine de l'intimé Conseil canadien des églises

Manickavasagam Suresh

v. (27790)

The Minister of Citizenship and Immigration, et al.
(F.C.)

GRANTED / ACCORDÉE Time extended to March 22, 2001.

4.4.2001

Before / Devant: ARBOUR J.

Motions for leave to intervene

Requêtes en autorisation d'intervention

BY/PAR: Attorney General of Canada
Attorney General of Ontario

IN/DANS: The Honourable Ralph Klein, et al.

v. (27980)

Barbara Decock, Tara Leigh Decock,
an infant by her Next Friend, Barbara
Decock, and Lindsey Allison Decock,
et al. (Alta.)

GRANTED / ACCORDÉE

UPON APPLICATION by the Attorney General of Canada and the Attorney General of Ontario 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 applicant Attorney General of Canada is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length.

2. 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 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 appellants and respondents any additional disbursements occasioned to the appellants and respondents by the interventions.

5.4.2001

Before / Devant: GONTHIER J.

Further order on motion for leave to intervene

BY/PAR: Federation of Associations of
Canadian Tamils
Canadian Council of Churches
Canadian Arab Federation
United Nations High Commissioner
for Refugees
Amnesty International (Canadian
Section)
Canadian Council for Refugees
Centre for Constitutional Rights
Canadian Bar Association

IN/DANS: Manickavasagam Suresh

v. (27790)

The Minister of Citizenship and
Immigration, et al. (F.C.)

**Autre ordonnance sur une requête en autorisation
d'intervention**

UPON APPLICATION by the Federation of Associations of Canadian Tamils, the Canadian Council of Churches, the Canadian Arab Federation, the United Nations High Commissioner, the Amnesty International (Canadian Section), the Canadian Council for Refugees, the Centre for Constitutional Rights and the Canadian Bar Association for leave to intervene in the above appeal and pursuant to the orders of December 18, 2000 and January 23, 2001 thereon;

IT IS HEREBY FURTHER ORDERED THAT the said interveners are granted permission to present oral argument at the hearing of the appeal not to exceed the time allowed respectively to each of them as follows:

-
- | | | |
|---|---|------------|
| - | Canadian Arab Federation | 10 minutes |
| - | United Nations High Commissioner for Refugees | 10 minutes |
| - | Canadian Council for Refugees | 10 minutes |
| - | Canadian Bar Association | 10 minutes |
-

9.4.2001

Before / Devant: THE CHIEF JUSTICE

Motion by the respondent to state a constitutional question**Requête de la part de l'intimée pour énoncer une question constitutionnelle**

Sa Majesté la Reine du chef de la Province du Nouveau-Brunswick représenté par le Bureau du Conseil exécutif, et al.

c. (28206)

Le juge Jocelyne Moreau-Bérubé (N.-B.)

GRANTED / ACCORDÉE Notices of intervention are to be filed on or before May 15, 2001.

L'article 6.11(8) de la *Loi sur la Cour provinciale*, L.R.N.-B. 1973, ch. P-21, est-il invalide ou inopérant dans la mesure où la destitution d'un juge de la Cour provinciale sans adresse législative enfreint les principes fondamentaux de l'indépendance judiciaire garantis par le Préambule de la *Loi constitutionnelle de 1867*?

Is s. 6.11(8) of the *Provincial Court Act*, R.S.N.B. 1973, c. P-21, invalid or of no force or effect insofar as the removal of a judge of the Provincial Court without a legislative address infringes the fundamental principles of judicial independence guaranteed by the Preamble to the *Constitution Act, 1867*?

30.3.2001

Before / Devant: BINNIE J.

**Motion for directions
2001 SCC 22****Demande pour obtenir des directives
2001 CSC 22**

Saskatchewan Indian Gaming Authority Inc.

v. (28406)

National Automobile, Aerospace, Transportation and General Workers' Union of Canada (CAW - Canada), et al. (Sask.)

The Attorney General of Saskatchewan seeks an order directing the Saskatchewan Indian Gaming Authority to serve the Attorney General of Saskatchewan with the application for leave to appeal in this matter. Rule 23(10) provides that

an applicant shall serve the application for leave on the parties in the courts below and shall file the application for leave with the Registrar within the time set out in para. 58 (1) (a) sub.-sec.58 (2) of the *Act* or as extended pursuant to sub-section 59 (1) of the *Act*. [emphasis added]

Rule 1 defines a party to include “an intervener unless the text provides otherwise or unless the context does not so permit”. Section 8 of the *Constitutional Questions Act* R.S.S. 1978 c. - 29 provides in sub-s. 9 that where the Attorney General for Saskatchewan appears in a proceeding before a court in Saskatchewan in respect to a Constitutional Question “he is a party for the purposes of appeal from an adjudication therein respecting the validity or applicability of a law or respecting entitlement to a remedy”.

There is no doubt that the Saskatchewan Indian Gaming Authority Inc. was required to serve the Attorney General of Saskatchewan with the leave application to this court. Accordingly an order will go directing the applicant Saskatchewan Indian Gaming Authority Inc. to serve the Attorney General for Saskatchewan with the application for leave to appeal and any other materials that the applicant may subsequently file in this matter, and permitting the Attorney General for Saskatchewan to file his response within thirty days from the date of such service.

The Attorney General of Saskatchewan is entitled to his costs of this motion in any event of the cause.

[TRANSDUCTION]

Le procureur général de la Saskatchewan sollicite une ordonnance intimant à la Saskatchewan Indian Gaming Authority Inc. de lui signifier la demande d'autorisation d'appel dans le présent dossier. La règle 23(10) précise que

[1] la demande d'autorisation doit être signifiée aux parties au litige devant le tribunal de juridiction inférieure et déposée auprès du registraire dans le délai prévu à l'alinéa 58(1)a) et au paragraphe 58(2) de la Loi ou prorogé conformément au paragraphe 59(1) de la Loi. [Je souligne.]

Aux termes de la règle 1, «sauf indication contraire du contexte, les [. . .] intervenants» sont compris parmi les parties. Le paragraphe 8(9) de la *Constitutional Questions Act*, R.S.S. 1978, ch. C-29, dispose que, lorsque le procureur général de la Saskatchewan comparaît relativement à une question constitutionnelle dans une instance devant un tribunal de la Saskatchewan, [TRANSDUCTION] «il est partie à l'appel de la décision rendue dans cette instance relativement soit à la validité ou à l'applicabilité d'une loi, soit au droit à une réparation».

Il ne fait aucun doute que la Saskatchewan Indian Gaming Authority Inc. était tenue de signifier au procureur général de la Saskatchewan la demande d'autorisation d'appel à notre Cour. Par conséquent, il sera rendu une ordonnance intimant à la Saskatchewan Indian Gaming Authority Inc. demanderesse de signifier au procureur général de la Saskatchewan la demande d'autorisation d'appel ainsi que tout autre document qu'elle déposera par la suite dans le cadre du présent dossier, et autorisant le procureur général de la Saskatchewan à produire sa réponse dans un délai de trente jours de la date de la signification.

Le procureur général de la Saskatchewan a droit aux dépens afférents à la présente requête, quelle que soit l'issue de l'affaire.

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 : **April 17, 2001**
Service : March 27, 2001
Filing : March 30, 2001
Respondent : April 9, 2001

Motion day : **May 14, 2001**
Service : April 23, 2001
Filing : April 27, 2001
Respondent : May 4, 2001

Motion day : **June 11, 2001**
Service : May 18, 2001
Filing : May 25, 2001
Respondent : June 1, 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 : **17 avril 2001**
Signification : 27 mars 2001
Dépôt : 30 mars 2001
Intimé : 9 avril 2001

Audience du : **14 mai 2001**
Signification : 23 avril 2001
Dépôt : 27 avril 2001
Intimé : 4 mai 2001

Audience du : **11 juin 2001**
Signification : 18 mai 2001
Dépôt : 25 mai 2001
Intimé : 1 juin 2001

DEADLINES: APPEALS

The Spring Session of the Supreme Court of Canada will commence April 17, 2001.

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

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

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

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

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

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

The Registrar shall inscribe the appeal for hearing upon the filing of the respondent's factum or after the expiry of the time for filing the respondent's factum.

DÉLAIS: APPELS

La session du printemps de la Cour suprême du Canada commencera le 17 avril 2001.

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 du dépôt 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 du mémoire 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 du mémoire de l'intimé, sauf ordonnance contraire.

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

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

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

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

Judgments reported in [2000] 2 S.C.R. Part 6

Whirlpool Corp. v. Camco Inc. [2000] 2 S.C.R. 1067, 2000 SCC 67

Whirlpool Corp. v. Maytag Corp. [2000] 2 S.C.R. 1116, 2000 SCC 68

Little Sisters Book and Art Emporium v. Canada (Minister of Justice), [2000] 2 S.C.R. 1120, 2000 SCC 69

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

Jugements publiés dans [2000] 2 R.C.S. Partie 6

Whirlpool Corp. c. Camco Inc., [2000] 2 R.C.S. 1067, 2000 CSC 67

Whirlpool Corp. c. Maytag Corp., [2000] 2 R.C.S. 1116, 2000 CSC 68

Little Sisters Book and Art Emporium c. Canada (Ministre de la Justice) [2000] 2 R.C.S. 1120, 2000 CSC 69

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

2000

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

DECEMBER - DECEMBRE						
S D	M L	T M	W M	T J	F V	S S
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17	18	19	20	21	22	23
24	H 25	H 26	27	28	29	30
31						

- 2001 -

JANUARY - JANVIER						
S D	M L	T M	W M	T J	F V	S S
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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	31			

FEBRUARY - FÉVRIER						
S D	M L	T M	W M	T J	F V	S S
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25	26	27	28			

MARCH - MARS						
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APRIL - AVRIL						
S D	M L	T M	W M	T J	F V	S S
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15	H 16	M 17	18	19	20	21
22	23	24	25	26	27	28
29	30					

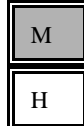
MAY - MAI						
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R 6	7	8	9	10	11	12
13	M 14	15	16	17	18	19
20	H 21	22	23	24	25	26
27	28	29	30	31		

JUNE - JUIN						
S D	M L	T M	W M	T J	F V	S S
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10	M 11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

Sittings of the court:
Séances de la cour:

Motions:
Requêtes:

Holidays:
Jours fériés:



18 sitting weeks / semaines séances de la cour
78 sitting days / journées séances de la cour

9 motion and conference days / journées requêtes, conférences
3 holidays during sitting days / jours fériés durant les sessions