

+

SUPREME COURT OF CANADA



COUR SUPRÊME DU CANADA

BULLETIN OF PROCEEDINGS

This Bulletin is published at the direction of the Registrar and is for general information only. It is not to be used as evidence of its content, which, if required, should be proved by Certificate of the Registrar under the Seal of the Court. While every effort is made to ensure accuracy, no responsibility is assumed for errors or omissions.

Subscriptions may be had at \$200 per year, payable in advance, in accordance with the Court tariff. During Court sessions it is usually issued weekly.

The Bulletin, being a factual report of recorded proceedings, is produced in the language of record. Where a judgment has been rendered, requests for copies should be made to the Registrar, with a remittance of \$10 for each set of reasons. All remittances should be made payable to the Receiver General for Canada.

BULLETIN DES PROCÉDURES

Ce Bulletin, publié sous l'autorité du registraire, ne vise qu'à fournir des renseignements d'ordre général. Il ne peut servir de preuve de son contenu. Celle-ci s'établit par un certificat du registraire donné sous le sceau de la Cour. Rien n'est négligé pour assurer l'exactitude du contenu, mais la Cour décline toute responsabilité pour les erreurs ou omissions.

Le prix de l'abonnement, fixé dans le tarif de la Cour, est de 200 \$ l'an, payable d'avance. Le Bulletin paraît en principe toutes les semaines pendant les sessions de la Cour.

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.

CONTENTS**TABLE DES MATIÈRES**

Applications for leave to appeal filed	529	Demandes d'autorisation d'appel déposées
Applications for leave submitted to Court since last issue	530 - 539	Demandes soumises à la Cour depuis la dernière parution
Oral hearing ordered	-	Audience ordonnée
Oral hearing on applications for leave	-	Audience sur les demandes d'autorisation
Judgments on applications for leave	540 - 549	Jugements rendus sur les demandes d'autorisation
Judgment on motion	-	Jugement sur requête
Motions	550 - 553	Requêtes
Notices of appeal filed since last issue	554	Avis d'appel déposés depuis la dernière parution
Notices of intervention filed since last issue	-	Avis d'intervention déposés depuis la dernière parution
Notices of discontinuance filed since last issue	-	Avis de désistement déposés depuis la dernière parution
Appeals heard since last issue and disposition	555 - 560	Appels entendus depuis la dernière parution et résultat
Pronouncements of appeals reserved	-	Jugements rendus sur les appels en délibéré
Rehearing	-	Nouvelle audition
Headnotes of recent judgments	-	Sommaires des arrêts récents
Agenda	-	Calendrier
Summaries of the cases	-	Résumés des affaires
Appeals inscribed - Session beginning	-	Appels inscrits - Session commençant le
Notices to the Profession and Press Release	-	Avis aux avocats et communiqué de presse
Deadlines: Motions before the Court	561	Délais: Requêtes devant la Cour
Deadlines: Appeals	562	Délais: Appels
Judgments reported in S.C.R.	563	Jugements publiés au R.C.S.

**APPLICATIONS FOR LEAVE TO
APPEAL FILED**

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

Eli Lilly & Company, et al.

Anthony G. Creber
Gowling Lafleur Henderson LLP

v. (28382)

Apotex Inc., et al. (F.C.)

Harry Radomski
Goodmans LLP

FILING DATE 19.2.2001

Her Majesty the Queen

William F. Ehrcke, Q.C.
A.G. of British Columbia

v. (28443)

Rajinder Kumar Benji (B.C.)

Peter Leask, Q.C.
Leask Bahen

FILING DATE 27.2.2001

Kyle Brendon Stroshein

Morris P. Bodnar, Q.C.
Bodnar, Wanhella & Cutforth

v. (28392)

Her Majesty the Queen (Sask.)

Eric J. Neufeld, Q.C.
A.G. for Saskatchewan

FILING DATE 28.2.2001

Yvonne Jacqueline Daley

Yvonne Jacqueline Daley

v. (28444)

Deston Osmond Daley (Ont.)

Deston Osmond Daley

FILING DATE 1.3.2001

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

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

MARCH 19, 2001 / LE 19 MARS 2001

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

Paul Creek

v. (28255)

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

NATURE OF THE CASE

Criminal law - Evidence - Unreasonable verdict - Whether the verdict was reasonable and supported by the evidence

PROCEDURAL HISTORY

April 8, 1998 Supreme Court of British Columbia (Stewart J.)	Conviction: Second degree murder
September 21, 2000 British Columbia Court of Appeal (Esson, Southin and Braidwood JJ.A.)	Appeal dismissed
November 23, 2000 Supreme Court of Canada (Major J.)	Motion for the extension of time granted
January 19, 2001 Supreme Court of Canada	Application for leave to appeal filed

Evangeline Godron

v. (28424)

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

NATURE OF THE CASE

Charter of Rights and Freedoms - Criminal law - Public nudity - Mischief - Defences - Colour of right - Whether prohibiting women from being topless in a public place for a non-commercial and non-sexual purpose is discrimination based on sex and therefore contrary to s. 15(1) of the Charter - Whether s. 429(2) (Defence to Mischief offence) is unconstitutional in that it places an evidentiary burden upon an accused in order to establish a legal justification or excuse and colour of right thereby violating the presumption of innocence as contained in the Charter - Whether s. 429(2) requires an accused to make out legal justification or excuse and colour of right or whether any of these three defences is sufficient - Whether the colour of right defence is made out where the accused is honestly mistaken in law or whether this defence is restricted to mistake of fact - Whether a societal interest and/or policy reason must be satisfied before the colour of right defence can succeed - Whether there are conflicting authorities concerning a woman's right to be topless in public.

PROCEDURAL HISTORY

September 20, 1999 Provincial Court of Saskatchewan (Orr P.C.J.)	Conviction: Mischief (<i>Criminal Code</i> s. 430(1))
May 11, 2000 Court of Queen's Bench for Saskatchewan (Hunter J.)	Summary conviction appeal dismissed
December 12, 2000 Court of Appeal for Saskatchewan (Cameron, Gerwing, Lane J.J.A.)	Appeal dismissed
February 13, 2001 Supreme Court of Canada	Application for leave to appeal and motion for the extension of time filed

Marjan Aghaipour

v. (28350)

**National Bank of Canada AND Roland Home Improvements Limited and Roland Karl Filzmaier AND
Laurentian Bank of Canada as Trustee for RRSP 28A-11571 (Paul Ezrin) (Ont.)**

NATURE OF THE CASE

Procedural Law - Civil Procedure - Contempt of Court - Applicant found in contempt - Whether court has a positive duty to consider statutory context of an order when adjudicating upon contempt - Standard of review of contempt orders - Whether Court of Appeal failed to properly base its judgement on terms of original order and statutory context.

PROCEDURAL HISTORY

January 7, 2000 Superior Court of Justice (Greer J.)	Applicant held in contempt of court; Applicant, Roland Home Improvements Limited and Roland Filzmaier ordered to pay \$84,365.00 plus interest into Court
November 9, 2000 Court of Appeal for Ontario (Finlayson, Labrosse and Weiler J.J.A.)	Applicant's appeal dismissed
January 2, 2001 Supreme Court of Canada	Application for leave to appeal filed

McCall Pontiac Buick Ltd.

v. (28175)

Reid Hamer-Jackson (B.C.)

NATURE OF THE CASE

Labour law - Commercial law - Wrongful dismissal - Whether the principle pronounced by this Court in *Wallace v. United Grain Growers Ltd.*, [1997] 3 S.C.R. 701 applies to events occurring after the dismissal of an employee - What distinctions between aggravated damages, punitive damages and the increased damages are permitted by the principle enunciated in *Wallace v. United Grain Growers Ltd.* - Whether it is a proper exercise of judicial discretion to award special costs in circumstances where the litigant had already been punished for the same conduct in an award of aggravated, punitive or increased damages - Whether a litigant who has effectively mitigated the loss occurring from loss of employment can voluntarily terminate the mitigation and resume a claim for damages against the prior employer.

PROCEDURAL HISTORY

August 7, 1998 Supreme Court of British Columbia (Burnyeat J.)	Respondent's action in damages for wrongful dismissal allowed
July 4, 2000 Court of Appeal of British Columbia (Ryan, Huddart, and Saunders JJ.A.)	Appeal dismissed
September 27, 2000 Court of Appeal for British Columbia (Ryan, Huddart, and Saunders JJ.A.)	Respondent's application for special costs on appeal dismissed
September 29, 2000 Supreme Court of Canada	Application for leave to appeal filed

Roderick Macdonell

c. (28092)

Procureur général du Québec et Assemblée Nationale (Qué.)

NATURE DE LA CAUSE

Droit constitutionnel – Protection du processus décisionnel des membres de l'Assemblée nationale du Québec – Accès à l'information – Législation – *Loi sur l'accès aux documents des organismes publics et sur la protection des renseignements personnels*, L.R.Q., c. a-2.1 – Interprétation des exceptions au principe général de l'accès aux documents des organismes publics – Qu'est-ce qu'un document préparé pour le compte d'un député? – La Cour d'appel a-t-elle erré en rejetant la demande en révision judiciaire d'une décision de la Commission d'accès à l'information?

HISTORIQUE PROCÉDURAL

Le 15 mai 1996 Cour du Québec (Longtin, j.c.q.)	Requête pour permission d'en appeler d'une décision de la Commission d'accès à l'information rejetée
Le 3 décembre 1996 Cour supérieure du Québec (Barbeau, j.c.s.)	Requête en révision judiciaire accueillie ; Assemblée nationale enjoignant de donner accès au demandeur au document demandé
Le 31 mai 2000 Cour d'appel du Québec (Chamberland [<i>dissident</i>], Forget et Denis [<i>ad hoc</i>], jj.c.a.)	Appel accueilli ; requête en révision judiciaire rejetée
Le 30 août 2000 Cour suprême du Canada	Demande d'autorisation déposée

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

Maurice Boucher

c. (28280)

Sa Majesté la Reine (Crim.)(Qué.)

NATURE DE LA CAUSE

Droit criminel - Preuve - Témoin délateur - Mise en garde de type *Vetrovec* - La Cour d'appel a-t-elle erré en droit en renversant l'exercice du pouvoir discrétionnaire du juge du procès sans même référer aux faits de la cause, mais seulement à la plaidoirie de la Couronne - La Cour d'appel a-t-elle erré en droit en considérant comme potentiellement corroboratives des circonstances factuelles qui soit n'étaient pas indépendantes du témoignage de Gagné, soit n'avaient aucune relation avec la question en litige - La Cour d'appel a-t-elle erré en droit en appliquant à tort l'article 686(4)b)(i) du *Code criminel*, L.R.C. 1985, ch. C-46 - La Cour d'appel a-t-elle erré en droit dans sa compréhension et dans son application de l'arrêt *R. c. Vetrovec*, [1982] 1 S.C.R. 811?

HISTORIQUE PROCÉDURAL

Le 27 novembre 1998 Cour supérieure du Québec (Boilard j.c.s.)	Demandeur reconnu non coupable, suite à procès devant juge et jury, de 2 chefs d'accusation en vertu de l'article 235 et un chef d'accusation en vertu de l'article 239a) du <i>Code criminel</i>
Le 10 octobre 2000 Cour d'appel du Québec (Proulx, Fish, Chamberland jj.c.a.)	Appel accueilli et ordonnance pour la tenue d'un nouveau procès
Le 8 décembre 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

Fraternité des préposés à l'entretien des voies

c. (28124)

Canadien Pacifique Limitée (Qué.)

NATURE DE LA CAUSE

Droit administratif - Révision judiciaire - Preuve extrinsèque - Convention collective - Est-ce qu'un décideur unique dans un système d'arbitrage créé pour une industrie donnée peut rendre des décisions contradictoires sans que cela ne puisse justifier l'intervention des tribunaux supérieurs, et ce, en application de l'arrêt de cette Cour dans l'affaire *Domtar c. Québec (CALP)*? Est-ce qu'un arbitre peut recourir à une preuve extrinsèque afin de contredire des dispositions claires d'une convention collective sans que cela ne puisse justifier l'intervention des tribunaux supérieurs? Est-ce qu'une preuve extrinsèque qui ne traduit aucunement l'intention des parties à une convention peut servir à en contredire les dispositions?

HISTORIQUE PROCÉDURAL

Le 12 mars 1997
Cour supérieure du Québec
(Grenier j.c.s.)

Requête en évocation de la demanderesse accueillie;
décision de l'arbitre cassée et annulée

Le 16 juin 2000
Cour d'appel du Québec
(Rothman, Forget et Biron jj.c.a.)

Pourvoi accueilli avec dépens

Le 15 septembre 2000
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Jones Power Co. Limited and J.A. Jones Construction Company

v. (28205)

Mitsui & Co. (Point Aconi) Ltd. (N.S.)

NATURE OF THE CASE

Procedural Law - Appeal - New trial - What is the correct legal test to be applied by an appellate court in the determination whether to order a new trial after finding error in the court below - Whether it is appropriate for an appellate court to make a determination of a material issue in an appeal on the basis of evidence not available to one of the parties, and in the absence of submissions on the effect of such evidence from one of the parties

PROCEDURAL HISTORY

August 5, 1999
Supreme Court of Nova Scotia, Trial Division
(Richard J.)

Memorandum of Understanding held to be a valid and
legally binding contract

August 23, 2000
Nova Scotia Court of Appeal
(Cromwell, Roscoe and Flinn JJ.A.)

Appeal dismissed

October 20, 2000
Supreme Court of Canada

Application for leave to appeal filed

Johanne Blackburn

c. (28162)

Sylvain Boivin (Qué.)

NATURE DE LA CAUSE

Procédure - Appel - Responsabilité civile - Délit intentionnel - Requête en rejet d'appel dilatoire ou abusif - La Cour d'appel du Québec a-t-elle erré en accueillant la requête en rejet d'appel et en concluant que cet appel n'avait aucune chance de succès et était voué à l'échec ? - La Cour d'appel a-t-elle erré en droit sur le fardeau imposé à l'appelante lors d'une requête en rejet d'appel ? - Le juge de première instance a-t-il erré dans son appréciation des faits et de la crédibilité des témoins? - *Code de procédure civile du Québec*, L.R.Q., c. C-25, par. 501(5).

HISTORIQUE PROCÉDURAL

Le 28 janvier 2000
Cour supérieure du Québec
(Morin j.c.s.)

Requête interlocutoire rejetée

Le 16 février 2000
Cour supérieure du Québec
(Morin j.c.s.)

Action en dommages rejetée

Le 10 juillet 2000
Cour d'appel du Québec
(Gendreau, Pidgeon, Thibault jj.c.a)

Appel rejeté

Le 28 septembre 2000
Cour suprême du Canada

Demande d'autorisation d'appel déposée

605715 Saskatchewan Ltd., carrying on business under the name "Showgirls" and Sally Dube

v. (28152)

The Saskatchewan Liquor and Gaming Licensing Commission and The Saskatchewan Liquor and Gaming Authority (Sask.)

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms, ss. 1 and 2(b) - Civil - Constitutional law - Administrative law - Freedom of expression - Liquor control licences - Striptease performance - Prohibited entertainment pursuant to s. 54(1)(b) of *The Alcohol Control Regulations, 1994* - Whether the Court of Appeal erred in its *Charter* analysis - Whether the Court of Appeal erred in making a distinction between expression for commercial purposes and other expressions - Whether the Court of Appeal erred in permitting Government an ability to place "time, manner and place" restrictions on expression without having to justify those restrictions under s. 1 of the *Charter*.

PROCEDURAL HISTORY

May 27, 1999
Court of Queen's Bench of Saskatchewan
(Dielschneider J.)

Application for judicial review on the basis that s.54(1)(b) of *The Alcohol Control Regulations* contravened s.2(b) of the *Charter* dismissed

September 6, 2000
Court of Appeal for Saskatchewan
(Vancise, Gerwing and Lane JJ.A.)

Appeal dismissed

November 6, 2000
Supreme Court of Canada

Application for leave to appeal filed

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

Allen Bulmer

v. (28375)

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

NATURE OF THE CASE

Criminal law - Judicial impartiality - Reasonable apprehension of bias - Whether there existed a reasonable apprehension of bias for the trial judge to preside over the Applicant's trial in circumstances where the trial judge had previously presided over a trial in which the Applicant was convicted of similar charges and the trial judge had made adverse findings of credibility against the Applicant

PROCEDURAL HISTORY

August 5, 1998
Ontario Court of Justice (Provincial Division)
(Montgomery J.)

Conviction: impaired care and control of a motor vehicle
(*Criminal Code* s. 253(a))

November 18, 1999
Ontario Court of Justice
(Hermiston J.)

Summary conviction appeal dismissed

November 17, 2000
Ontario Court of Appeal
(Weiler, Goudge, Simmons JJ.A.)

Appeal dismissed

January 26, 2001
Supreme Court of Canada

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

Her Majesty the Queen

v. (28411)

Fotios Ploumis (Crim.)(Ont.)

NATURE OF THE CASE

Criminal Law - Sentencing - Blended sentences where the totality of sentences exceeds two years less a day - Whether Court may combine a conditional sentence with a term of imprisonment.

PROCEDURAL HISTORY

January 25, 2000 Ontario Court of Justice (Ormston J.)	Conviction for possession of cocaine for the purpose of trafficking and possession of weapon
April 26, 2000 Ontario Court of Justice (Ormston J.)	Sentence to 8 months incarceration plus 2 years less a day conditional and three years probation
December 13, 2000 Court of Appeal for Ontario (Osborne A.C.J., Moldaver and Goudge JJ.A.)	Appeal and cross-appeal from sentence allowed; 2 years less a day conditional reduced to 16 months less a day
February 9, 2001 Supreme Court of Canada	Application for leave to appeal filed

Vimalathas Aseervatham

v. (28232)

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

NATURE OF THE CASE

Canadian Charter - Civil - Civil rights - Right to counsel - Immigration law - Federal Court, Trial Division dismissing application for judicial review of Refugee Division's decision to schedule hearing on a date on which it knew that Applicant's counsel of choice was not available - Whether Federal Court, Trial Division erred in ruling that Applicant's right to counsel was not violated by Refugee Division's decision - *Canadian Charter of Rights and Freedoms*, s. 7 - *Immigration Act*, R.S.C. 1985, c. I-2, s. 69(1).

PROCEDURAL HISTORY

June 1, 2000 Federal Court, Trial Division (Dubé J.)	Application for judicial review dismissed
November 8, 2000 Supreme Court of Canada	Application for leave to appeal filed

Vimalathas Aseervatham

v. (28218)

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

NATURE OF THE CASE

Administrative law - Judicial review - Appeal - Jurisdiction - Immigration law - Federal Court, Trial Division dismissing application for judicial review of decision made under *Immigration Act*, R.S.C. 1985, c. I-2 - Trial Division refusing to certify question pursuant to s. 83 of Act - Whether Federal Court of Appeal erred in declining jurisdiction to entertain appeal.

PROCEDURAL HISTORY

June 1, 2000 Federal Court, Trial Division (Dubé J.)	Application for judicial review dismissed
September 5, 2000 Federal Court of Appeal (Décary J.A.)	Registry directed to reject notice of appeal
November 2, 2000 Supreme Court of Canada	Application for leave to appeal filed

Rachel Leah Moss

v. (28228)

The Attorney General of Canada (Man.)

NATURE OF THE CASE

Commercial law - Bankruptcy - Power of court to annul bankruptcy - Motions judge granting Respondent's application for an order annulling Applicant's assignment in bankruptcy pursuant to s. 181(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 - Whether, having found as a fact that Applicant was insolvent, court should exercise its discretion to annul assignment - Type of conduct or impact on creditors that should merit annulment of an assignment in bankruptcy - Whether status of annuity contracts a relevant consideration in disposition of motion to annul assignment.

PROCEDURAL HISTORY

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST ISSUE

DEMANDES SOUMISES À LA COUR DEPUIS
LA DERNIÈRE PARUTION

June 2, 1999
Court of Queen's Bench of Manitoba
(Steel J.)

Bankruptcy of Applicant annulled

September 12, 2000
Court of Appeal of Manitoba
(Twaddle, Kroft and Monnin JJ A.)

Appeal dismissed

November 7, 2000
Supreme Court of Canada

Application for leave to appeal filed

MARCH 22, 2001 / LE 22 MARS 2001

28167 **FRANCIS RIOUX - c. - SA MAJESTÉ LA REINE** (Qué.) (Criminelle)

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

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

NATURE DE LA CAUSE

Droit criminel - Législation - Interprétation - Preuve - Garde ou contrôle d'un véhicule - Présomption - La cour d'appel du Québec a-t-elle erré en statuant que la garde ou le contrôle a été prouvé par la simple existence d'une possibilité future de conduite, compte tenu que le demandeur a renversé la présomption prévue à l'article 258(1)a) du *Code criminel* et qu'il a pris les moyens pour éviter de mettre son véhicule en marche en prenant soin

HISTORIQUE PROCÉDURAL

Le 7 mai 1998 Cour du Québec (Bilodeau j.c.q.)	Déclaration de culpabilité: garde ou le contrôle d'un véhicule à moteur alors que capacité de conduire du Demandeur était affaiblie par l'alcool contrairement aux articles 253 a) et 255(1) du <i>Code criminel</i>
Le 27 août 1998 Cour supérieure du Québec (Grenier j.c.s.)	Appel accueilli; verdict d'acquiescement rendu
Le 3 juillet 2000 Cour d'appel du Québec (Rousseau-Houle, Pidgeon et Thibault jj.c.a.)	Appel accueilli; jugement de la Cour du Québec rétabli
Le 29 septembre 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

28159 **STANLEY DWYER - v. - CAVALLUZZO, HAYES, SHILTON, McINTYRE & CORNISH AND JAMES K. A. HAYES** (Ont.) (Civil)

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

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Labour law - Barristers and solicitors - Duty of fair representation - Applicant bringing action against law firm and lawyer claiming that they breached their duty to act competently and skilfully in representing him in a grievance arbitration - Motions judge concluding that court had no jurisdiction to entertain claim - Whether Court of Appeal erred in affirming decision - Whether unfair representation provision in *Canada Labour Code* operates so as to deprive court of jurisdiction to consider claim - *Canada Labour Code*, R.S.C. 1985, c. L-2, s. 37.

PROCEDURAL HISTORY

June 25, 1999 Superior Court of Justice (Ground J.)	Applicant's action dismissed
July 10, 2000 Court of Appeal for Ontario (Morden, Catzman, Moldaver JJ.A.)	Appeal dismissed
September 28, 2000 Supreme Court of Canada	Application for leave filed

27987 **SYNDICAT NATIONAL DES EMPLOYÉS MUNICIPAUX DE POINTE-CLAIRE - c. - MARC BOISVERT, EN SA QUALITÉ D'ARBITRE DE GRIEFS - et - VILLE DE POINTE-CLAIRE**
(Qué.) (Civile)

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

La demande d'autorisation d'appel est rejetée avec dépens en faveur de la mise en cause Ville de Pointe-Claire.

The application for leave to appeal is dismissed with costs to the mise en cause City of Pointe-Claire.

NATURE DE LA CAUSE

Droit du travail – Congédiement – Employé congédié pour cause de maladie – Le congédiement est-il une pratique discriminatoire au sens de la *Charte des droits et libertés de la personne*, L.R.Q., c. C-22, art. 10, 16 et 20? – La Cour supérieure et la Cour d'appel ont-elles erré quant à l'intensité des obligations d'accommodement d'un employeur en matière de handicap? – La Cour supérieure et la Cour d'appel ont-elle erré quant à l'existence d'accommodements contractuels non respectés par l'employeur, la Ville de Pointe-Claire?

HISTORIQUE PROCÉDURAL

Le 16 mars 2000 Cour supérieure du Québec (Frappier, j.c.s.)	Requête en contrôle judiciaire de la décision de l'arbitre rejetée
Le 28 avril 2000 Cour d'appel du Québec (Nuss, j.c.a.)	Requête pour permission d'en appeler rejetée
Le 22 juin 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

28125 **ANRAJ FISH PRODUCTS INDUSTRIES LTD. AND BENGAL SEAFOODS INC. - v. - HYUNDAI MERCHANT MARINE CO. LTD.** (FC) (Civil)

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

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

International law - Conflicts of law - Choice of jurisdiction - Forum selection clause in bill of lading - Commercial law - Contracts - Maritime contract - Consideration of the factors set out in *The Eleftheria* [1969] 1 Lloyd's Rep. 237 case - Appellate review - Standard of review - The interpretation of jurisdiction clauses in bills of lading - What is the appropriate standard of second-level appellate review.

PROCEDURAL HISTORY

November 1, 1999 Federal Court of Canada, Trial Division (Lafrenière, Prothonotary)	Action stayed pending litigation of this matter in Seoul Civil District Court with fixed costs
December 10, 1999 Federal Court of Canada, Trial Division (Reed J.)	Appeal granted: Order of the Prothonotary set aside
June 20, 2000 Federal Court of Appeal (Décary, Sexton and Evans JJ.A.)	Appeal allowed: Prothonotary's order restored with costs
September 15, 2000 Supreme Court of Canada	Application for leave to appeal filed

28245 **HER MAJESTY THE QUEEN - v. - CATHERINE HUFF** (Crim.) (Ont.)

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 - Driving over 80 - Evidence to the contrary - Compellability of statement - Statement given to police while detained and before afforded right to counsel - Whether roadside statements of an accused as to alcohol consumption can be considered by a trial judge in relation to a defence of evidence to the contrary - Whether decision is in conflict with *R. v. Smug*, [1998] O.J. No. 4357 (QL)

PROCEDURAL HISTORY

July 23, 1998 Ontario Court (Provincial Division) (Casey J.)	Conviction: Respondent found guilty of driving while impaired contrary to s.253(b) of the <i>Criminal Code</i>
November 5, 1999 Ontario Superior Court of Justice (sitting as a summary conviction appeal court)	Appeal against conviction allowed; new trial ordered

(Wren J.)

September 19, 2000
Court of Appeal for Ontario
(Rosenberg, Moldaver and Simmons JJ.A.)

Appeal dismissed

November 16, 2000
Supreme Court of Canada

Application for leave to appeal filed

28306 **LARRY DRURY, WILLIAM HAZARD - v. - HER MAJESTY THE QUEEN** (Man.) (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 of Rights and Freedoms - Criminal law - Right to counsel - Appointment of state-funded counsel - Whether the motions judge erred in not ordering the Crown to pay for counsel to represent the Applicants at trial - Trial procedure - Voir dire - Whether the trial judge erred in reading in evidence adduced on the voir dire

PROCEDURAL HISTORY

January 19, 1999
Court of Queen's Bench of Manitoba
(Duval J.)

Motion to determine whether counsel should be appointed and legal fees provided by the Crown dismissed

March 22, 1999
Court of Queen's Bench of Manitoba
(Wright J.)

Conviction: Possession of proceeds of crime, unlawful possession of a restricted weapon unlawfully concealing a weapon

October 5, 2000
Court of Appeal of Manitoba
(Huband, Kroft and Steel JJ.A.)

Appeals against conviction and sentence dismissed

December 4, 2000
Supreme Court of Canada

Application for leave to appeal filed

28251 **JOSEPH SHAUN FINNESSEY - 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 - Sentencing appeal - Sentence varied by court of appeal - Appellate review of sentencing - Whether the court of appeal erred in substituting their view of an appropriate sentence for that of the trial judge in the absence of an error in principle or an unfit sentence - Whether the court of appeal erred in fettering a trial judge's discretion on sentence by requiring a penitentiary sentence for convictions for criminal harassment.

PROCEDURAL HISTORY

December 30, 1999
Ontario Court of Justice
(McGrath J.)

Applicant pled guilty and convicted of: breaking and entering and uttering threats, mischief, uttering threats, criminal harassment; failing to attend court; sentenced to 20 months in custody and 3 years of probation

September 11, 2000
Court of Appeal for Ontario
(Osborne A.C.J.O., Doherty and Charron JJ.A.)

Appeal from sentence allowed; sentence varied to 4 years

November 30, 2000
Supreme Court of Canada

Application for leave to appeal filed

November 22, 2000
Supreme Court of Canada
(Gonthier J.)

Motion for an extension of time to serve and file application for leave to appeal granted

27895 **ROLSTON RICARDO MOFFATT - v. - THE MINISTER OF CITIZENSHIP AND IMMIGRATION** (FC) (Civil)

CORAM: Gonthier, Major and Binnie JJ.

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

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

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Civil - Sections 7 and 15 of the *Charter* - Immigration law - Deportation - Danger to the public determination by the Minister - Whether the Court of Appeal erred in dismissing the motion to adduce fresh evidence - Whether the Court of Appeal erred in dismissing the constitutional question challenging the constitutionality of subsection 70(5) of the *Immigration Act* pursuant to s. 15 of the *Charter* - Whether the Court of Appeal erred in law in dismissing the appeal, and in ordering the Applicant to pay costs.

PROCEDURAL HISTORY

July 21, 1997 Federal Court of Canada, Trial Division (Gibson J.)	Applicant's application for judicial review of the Respondent Minister's decision that the Applicant is a danger to the public in Canada dismissed
April 7, 2000 Federal Court of Appeal (Isaac, Robertson and Sexton JJ.A.)	Appeal dismissed with costs
October 25, 2000 Supreme Court of Canada	Application for leave to appeal and motion for an extension of time to file and serve the application for leave to appeal filed

28150 **DOUGLAS SLOAN - v. - THE YORK REGION DISTRICT SCHOOL BOARD, GARY MICHAEL, PERSONALLY AND AS VICE-PRINCIPAL OF THE YORK REGION DISTRICT SCHOOL BOARD, MICHAEL MAGARREY, PERSONALLY AND AS A PRINCIPAL OF THE YORK REGION DISTRICT SCHOOL BOARD, HELEN FOX, PERSONALLY AND AS PRINCIPAL OF THE YORK REGION DISTRICT SCHOOL BOARD, UNKNOWN OTHERS, PERSONALLY AND AS AGENTS OR OFFICERS OF THE YORK REGION DISTRICT SCHOOL BOARD** (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

Procedural law - Actions - Torts - Libel and slander - Did lower courts err in disposition of case.

PROCEDURAL HISTORY

August 26, 1999 Superior Court of Justice (Lamek J.)	Applicant's action for defamation stayed
July 20, 2000 Court of Appeal for Ontario (Labrosse, Weiler, Sharpe JJ.A.)	Appeal dismissed
September 27, 2000	Application for leave to appeal filed

Supreme Court of Canada

28142 **HENRY McALISTER LANG - v. - YOLANDA NACCARATO** (Ont.) (Civil)

CORAM: Gonthier, Major and Binnie JJ.

The application for leave to appeal is dismissed with costs fixed at \$5,000 on a solicitor and client basis.

La demande d'autorisation d'appel est rejetée avec dépens fixés au montant de 5 000 \$ sur une base d'avocat-client.

NATURE OF THE CASE

Procedural law - Costs - Appeal - Assessment order reducing lawyer's bill of costs to client - Whether Court of Appeal erred in failing to reverse the order

PROCEDURAL HISTORY

June 25, 1998 Ontario Court (General Division) Lane, A.O.	Assessment report requiring Applicant to return the sum of \$12,582.68 to the Respondent client
December 9, 1998 Superior Court of Justice (Noble J.)	Motion to adduce further evidence and motion opposing confirmation of report of Assessment Officer dismissed with costs
March 28, 2000 Divisional Court, Superior Court of Justice (O'Driscoll, Millette and Marshman JJ.)	Appeal dismissed with costs
June 28, 2000 Court of Appeal for Ontario (McMurtry C.J.O., Morden and Rosenberg JJ.A.)	Applicant's motion for leave to appeal dismissed with costs
September 25, 2000 Supreme Court of Canada	Application for leave to appeal filed

28235 **EKREM PUPOVIC - 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 - Trial - Evidence - Sentencing - Whether the Court of Appeal for Ontario erred in failing to hold that the verdict of guilty on the charge of unlawful confinement was inconsistent with the Applicant's acquittal on all the other charges - Whether the Court of Appeal for Ontario erred in applying too narrow a test in determining whether a verdict is inconsistent - Whether the Court of Appeal for Ontario erred in holding that the learned trial judge did not err in law in holding that an attack on the complainant's credibility opened up the Applicant to cross-examination upon his criminal history involving crimes of violence - Whether the Court of Appeal for Ontario erred in holding that the learned trial judge did not err in law in admitting in reply, evidence that was excluded as hearsay and not admissible as an exception to the hearsay rule or pursuant to the principled rule for admission - Whether the Court of Appeal for Ontario erred in holding that the learned trial judge did not err in law in admitting improper reply evidence which tended to show that the Applicant was a person of bad character thus substantially prejudicing the Applicant's right to a fair trial

PROCEDURAL HISTORY

January 27, 1998
Ontario Court of Justice
(Whealy J.)

Applicant convicted by jury of the charge of unlawful confinement contrary to s. 279(2) of the *Criminal Code*, and acquitted of charges of breaking and entering a dwelling place with intent to commit an indictable offence and attempted kidnapping contrary to ss. 349(1) and 279(1) of the *Criminal Code*

June 16, 1998
Ontario Court of Justice
(Whealy J.)

Applicant sentenced to five years imprisonment

September 8, 2000
Court of Appeal for Ontario
(Labrosse, Weiler and Sharpe JJ.A.)

Appeal against conviction dismissed; leave to appeal sentence granted, appeal allowed and sentence reduced to two years imprisonment and three years probation

November 1, 2000
Supreme Court of Canada

Application for leave to appeal filed

28083 **GEORGE BABES, PAUL SLAT, CHRISTOPHER BARTLETT, DOMINGUS MOURA, LUIGI FILIPELLI AND ALLISTER MCCREADY - v. - HER MAJESTY THE QUEEN** (Ont.)
(Criminal)

CORAM: Gonthier, Major and Binnie JJ.

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

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

NATURE OF THE CASE

Criminal law - Evidence - Informer privilege - Whether the informant who provided evidence enabling police to obtain a wiretap authorization was really an agent of the police - Whether the Crown committed an abuse of process by changing its position with respect to the informant - Whether the appropriate remedy for such an abuse of process is the disclosure of the informant's identity

PROCEDURAL HISTORY

March 26, 1999 Ontario Court (Provincial Division) (Bassel J.)	Application by Applicants for an order that the identity of a Crown informant be disclosed granted
July 20, 1999 Superior Court of Justice (Humphrey J.)	Appeal of Bassel J. order allowed
August 10, 2000 Court of Appeal for Ontario (Morden, Austin and Goudge JJ.A.)	Appeal dismissed
August 21, 2000 Supreme Court of Canada	Notice of Application for leave to appeal filed
December 7, 2000 Supreme Court of Canada	Application for leave to appeal and motion for the extension of time filed

28211 **ABTAR SINGH BAINS - v. - RAGBIER SINGH BHANDAR** (B.C.) (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

Procedural law - Civil Procedure - Appeal - Evidence - New evidence - Due diligence in discovering concealed evidence - Whether an undisclosed agreement which might inhibit a material witness from giving evidence constitutes an interference with the administration of justice which warrants the judgment being set aside and a new trial ordered - What are the tests which a court of appeal must apply where it reconsiders its own decision after judgment has been handed down but before the order has been entered - Whether a party who conceals evidence can rely on the defence of due diligence in arguing that his adversary should have discovered the concealed evidence.

PROCEDURAL HISTORY

July 15, 1997 Supreme Court for British Columbia (Lowry J.)	Applicant's action to set aside previous judgment dismissed
January 22, 1999 Court of Appeal for British Columbia (McEachern C.J.B.C., Prowse and Braidwood JJ.A.)	Appeal allowed; new trial ordered
August 16, 2000 Court of Appeal for British Columbia (McEachern C.J.B.C., Prowse and Braidwood	Order of January 22, 1999 set aside; appeal dismissed

JJ.A.)

October 16, 2000
Supreme Court of Canada

Application for leave to appeal filed

28174 **IMPERIAL TOBACCO LIMITED, ROTHMANS, BENSON & HEDGES INC. - v. - LJUBISA SPASIC, AS ESTATE TRUSTEE OF THE ESTATE OF MIRJANA SPASIC** (Ont.) (Civil)

CORAM: Gonthier, Major and Binnie JJ.

The applications for leave to appeal are dismissed with costs.

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

NATURE OF THE CASE

Procedural Law - Civil Procedure - Motion to strike pleadings - Torts - Spoliation - Action against tobacco manufacturers for general, aggravated, exemplary and punitive damages for lung cancer caused to Respondent - Whether spoliation of evidence constitutes a cause of action - Whether it is plain and obvious that there is no cause of action in Canada for the intentional spoliation of evidence - Whether there is a conflict between British Columbia and Ontario appellate courts

PROCEDURAL HISTORY

November 25, 1998
Ontario Court (General Division)
(Cameron J.)

Order striking out clauses from the Respondent's Statement of Claim as disclosing no cause of action

July 21, 2000
Court of Appeal for Ontario
(Borins, MacPherson, Sharpe JJ.A.)

Respondent's appeal allowed and order of Cameron J. varied; cross-appeals dismissed with costs to the Respondent

September 29, 2000
Supreme Court of Canada

Application for leave to appeal filed

September 29, 2000
Supreme Court of Canada

Application for leave to appeal filed

13.3.2001

Before / Devant: BASTARACHE J.

Motion for additional time to present oral argument

Requête en prorogation du temps accordé pour la plaidoirie

The Law Society of British Columbia

v. (27108)

Jaswant Singh Mangat, et al. (B.C.)

DISMISSED / REJETÉE Motion on behalf of the respondents Mangat and Sparling, jointly, for an order extending the length of their oral arguments to a total of one hour and fifteen minutes is dismissed.

13.3.2001

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the respondent's factum and book of authorities

Requête en prorogation du délai imparti pour signifier et déposer les mémoire et recueil de jurisprudence et de doctrine de l'intimé

Her Majesty the Queen

v. (27838)

Z.L. (Crim.)(B.C.)

GRANTED / ACCORDÉE Time to serve and file the respondent's factum extended to January 19, 2001, *nunc pro tunc*. Time to serve and file the respondent's book of authorities extended to March 2, 2001, *nunc pro tunc*.

13.3.2001

Before / Devant: THE REGISTRAR

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

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

Fred Weeks

v. (28421)

Her Majesty the Queen (F.C.)

GRANTED / ACCORDÉE Time extended to April 6, 2001.

13.3.2001

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the respondent's factum and book of authorities and motion for permission to file the respondent's factum without marginal numbering

Her Majesty the Queen

v. (28226)

Lloyd Alfred Pakoo (Crim.)(Man.)

GRANTED / ACCORDÉE Time extended to March 1, 2001.

13.3.2001

Before / Devant: THE REGISTRAR

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

Golden Flight Travel Ltd.

v. (28341)

Jowaks Developments Limited, et al. (Ont.)

GRANTED / ACCORDÉE Time extended to March 9, 2001.

14.3.2001

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the factum and book of authorities of the interveners Friends of the Earth, West Coast Environmental Law Association and Canadian Association of Physicians for the Environment

John Hollick

v. (27699)

The City of Toronto (Ont.)

GRANTED / ACCORDÉE Time extended to March 30, 2001.

14.3.2001

Before / Devant: THE REGISTRAR

Requête en prorogation du délai imparti pour signifier et déposer les mémoire et recueil de jurisprudence et de doctrine de l'intimé et requête visant à obtenir l'autorisation de déposer le mémoire de l'intimé sans numérotation dans la marge

Requête en prorogation du délai de signification et de dépôt de la réplique du requérante

Requête en prorogation du délai imparti pour signifier et déposer les mémoire et recueil de jurisprudence et de doctrine des intervenants Les Ami(e)s de la terre, West Coast Environmental Law Association et Association canadienne des médecins pour l'environnement

Motion to extend the time in which to serve and file the respondent's response**Requête en prorogation du délai de signification et de dépôt de la réponse de l'intimé**

La Procureure générale du Québec

c. (28431)

Le Syndicat du personnel de l'enseignement du Nord de la Capitale (Qué.)

GRANTED / ACCORDÉE Délai prorogé au 17 avril 2001.

14.3.2001

Before / Devant: THE REGISTRAR

Miscellaneous motion**Autre requête**

Ralph Dick, et al.

v. (27641)

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

GRANTED IN PART / ACCORDÉE EN PARTIE The parties are permitted to serve and file 12 copies of a joint record on or before May 8, 2001. The time to serve and file the appellants' factums and books of authorities is extended to May 8, 2001. The time to serve and file the respondents' factums and book of authorities is extended to August 7, 2001.

15.3.2001

Before / Devant: THE REGISTRAR

Motion to extend time and motion for an order permitting the respondent to file a supplementary record**Requête en prorogation du délai et requête visant à obtenir une ordonnance autorisant l'intimé de déposer un dossier supplémentaire**

Sa Majesté la Reine

c. (27581)

Neil Peters (Crim.)(Qué.)

GRANTED / ACCORDÉE La requête pour obtenir une ordonnance prorogeant le délai pour signifier et produire le mémoire et le dossier de l'appelante en réponse à l'appel incident au 19 février 2001 est accordée et la requête pour obtenir une ordonnance permettant à l'intimé de déposer un dossier supplémentaire est accordée.

15.3.2001

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 of Quebec

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 / ACORDÉE Délai prorogé au 15 avril 2001.

15.3.2001

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file a joint response of the landowner respondents

The Chippewas of Sarnia Band

v. (28365)

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

GRANTED / ACCORDÉE Time extended to May 30, 2001.

Requête en prorogation du délai imparti pour signifier et déposer les mémoire et recueil de jurisprudence et de doctrine de l'intervenante la Procureure générale du Québec

Requête en prorogation du délai de signification et de dépôt d'une réponse conjointe des propriétaires fonciers intimés

**NOTICE OF APPEAL FILED SINCE
LAST ISSUE**

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

15.3.2001

Valérie Tremblay

c. (27965)

**Le Syndicat des employées et employés
professionnels-les et de bureau, section locale 57
SIEPB, CFC-FTQ (Qué.)**

15.3.2001

Compagnie d'assurance-vie Transamerica Canada

c. (27939)

Danielle Goulet (Qué.)

**APPEALS HEARD SINCE LAST ISSUE
AND DISPOSITION**

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

16.3.2001

CORAM: Iacobucci, Major, Bastarache, Binnie and Arbour JJ.

Her Majesty the Queen

John M. Gordon and Beverly MacLean for the appellant.

v. (27838)

William B. Smart, Q.C. for the respondent.

Z.L. (B.C.)(Crim.)(As of Right)

DISMISSED / REJETÉ

IACOBUCCI J. (orally):

[TRADUCTION] LE JUGE IACOBUCCI (oralement):

Mr. Smart, it will not be necessary to hear from you, the Court is ready to pronounce judgment.

Il ne sera pas nécessaire de vous entendre M^e Smart, la Cour est prête à rendre jugement.

This is an appeal as of right. Looking at all the circumstances of this case, we see no reason to interfere with the judgment of the majority of the British Columbia Court of Appeal and accordingly, we dismiss the appeal.

Le présent pourvoi est formé de plein droit. Compte tenu de toutes les circonstances de l'affaire, nous ne voyons aucune raison de modifier l'arrêt de la Cour d'appel de la Colombie-Britannique et, par conséquent, nous rejetons le pourvoi.

Nature of the case:

Nature de la cause:

Criminal law - Evidence - Sexual assault - Trial - Verdict - Whether the majority of the Court of Appeal erred in law in concluding that the verdict reached by the trial judge was unreasonable or unsupported by the evidence.

Droit criminel - Preuve - Agressions sexuelles- Procès - Verdict - La Cour d'appel à la majorité a-t-elle commis une erreur de droit en concluant que le verdict du juge du procès était déraisonnable ou ne pouvait s'appuyer sur la preuve?

16.3.2001

CORAM: Iacobucci, Major, Bastarache, Binnie and Arbour JJ.

W.B.C.

Sharon E. Lavine for the appellant.

v. (27822)

Her Majesty the Queen (Ont.)(Crim.)(As of Right)

Randy Schwartz for the respondent.

DISMISSED / REJETÉ

IACOBUCCIJ. (orally):

Ms. Lavine, you have said all that could be said on behalf of your client. Mr. Schwartz, it will not be necessary to hear from you, the Court is ready to pronounce judgment.

This appeal comes to us as of right. The sole issue in the appeal is whether the proviso in s. 686(1)(b)(iii) of the *Criminal Code* can be invoked to uphold the appellant's conviction. For substantially the reasons of the majority in the Ontario Court of Appeal, we agree that the proviso properly applies and accordingly we dismiss the appeal.

Nature of the case:

Criminal law - Evidence - Error of trial judge in admission of out-of-court statement by earlier complainant and exclusion of the transcript of the earlier trial with respect to the circumstances surrounding the commission of the sexual assault to establish the evidence of similar facts or prior discreditable conduct - Whether the majority of the Court of Appeal erred in law in applying the curative proviso in s. 686(1)(b)(iii) to uphold the Appellant's conviction for sexual assault?

[TRANSDUCTION] LE JUGE IACOBUCCI (oralement):

Maître Lavine, vous avez dit tout ce qui pouvait être dit en faveur de votre client. Maître Schwartz, il ne sera pas nécessaire de vous entendre, la Cour est prête à rendre jugement.

Le présent appel nous a été soumis de plein droit. La seule question en litige dans le présent pourvoi est de savoir si le sous-al. 686(1)b)(iii) du *Code criminel* peut être invoqué pour confirmer la déclaration de culpabilité de l'appelant. Essentiellement pour les motifs exposés par les juges de la majorité en Cour d'appel de l'Ontario, nous sommes d'avis que cette disposition s'applique et, en conséquence, nous rejetons l'appel.

Nature de la cause:

Droit criminel - Preuve - Le juge du procès a commis une erreur en concluant à l'admissibilité d'une déclaration extrajudiciaire faite par une ancienne plaignante et à l'exclusion de la transcription d'un procès antérieur, relativement aux circonstances entourant la perpétration de l'infraction d'agression sexuelle, en vue d'établir une preuve de faits similaires ou de conduite déshonorante antérieure - Les juges majoritaires de la Cour d'appel ont-ils commis une erreur de droit en appliquant la disposition réparatrice du sous-alinéa 686(1)b)(iii) afin de maintenir la déclaration de culpabilité de l'appelant pour agression sexuelle?

19.3.2001

CORAM: Gonthier, Iacobucci, Major, Bastarache, Binnie Arbour and LeBel JJ.

Ludco Enterprises Ltd., et al

v. (27320)

Her Majesty the Queen (F.C.)(Civil)(By Leave)

RESERVED / EN DÉLIBÉRÉ

Guy Du Pont, François Barette and Robert Raizenne for the appellants.

Pierre Cossette and Sophie-Lyne Lefebvre for the respondent.

Nature of the case:

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

Nature de la cause:

Droit fiscal - Impôt sur le revenu - Revenu tiré d'une entreprise ou d'un bien - Déductions - Frais engagés pour emprunter des fonds - Intérêt - Gains en capital - Les contribuables ont emprunté des fonds pour investir dans l'acquisition d'actions de deux sociétés étrangères - Les frais d'intérêt se sont élevés à 6 000 000 \$ - Lors du rachat des actions, les contribuables ont réalisé un gain en capital de 9 200 000 \$ - Les contribuables peuvent-ils déduire les frais d'intérêt engagés pour financer leur investissement suivant le sous-alinéa 20(1)c)(i) de la *Loi de l'impôt sur le revenu*, L.C. 1970-71-72, ch. 63 (LIR).

19.3.2001

CORAM: Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour and LeBel JJ.

Her Majesty the Queen

v. (27477)

John R. Singleton (F.C.)(Civil)(By Leave)

Donald G. Gibson and Deen C. Olsen for the appellant.

John H. Saunders for the respondent.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Taxation - Income tax - Income from business or property - Deductions - Interest payments - Direct use of the borrowed funds - Whether all transactions that are "conterminous and interdependent" must be taken into account in determining whether borrowed money was "used for the purpose of earning income" from a business or property within the meaning of paragraph 20(1)(c) of the *Act*.

Nature de la cause:

Droit fiscal - Impôt sur le revenu - Revenu d'une entreprise ou d'un bien - Déductions - Intérêts payés - Utilisation directe de la somme empruntée - Toutes les opérations qui sont «survenu[e]s l'une à la suite de l'autre» et qui sont «interdépendant[e]s» doivent-elles être prises en considération pour déterminer si l'argent emprunté a été «utilisé en vue de tirer un revenu» d'une entreprise ou d'un bien au sens de l'al. 20(1)c) de la *Loi*?

20.3.2001

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

Thierry Van Doosselaere, et al.

v. (27905)

Holt Cargo Systems Inc., et al. (Qué)(Civil)(By Leave)

and between

Frans G.A. Deroy, et al.

v. (27290)

Holt Cargo Systems Inc. (F.C.)(Civil)(By Leave)

RESERVED / EN DÉLIBÉRÉ

Nature of the case (27905):

International Law - Commercial Law - Conflict of Laws - Bankruptcy - Whether the issues in this case arise primarily from a bankruptcy matter or a maritime matter - Whether Canada favours a "universal" or territorial" approach to international insolvencies and bankruptcies - Which Court in Canada had jurisdiction to receive and rule on the Request for Assistance from the Belgian Bankruptcy Court?

Nature of the case (27290):

International Law - Maritime Law - Commercial Law - Bankruptcy - Conflict of Laws - Securities - Maritime lien - Whether in international bankruptcies, the universal approach should be adopted unless there are public policy reasons to the contrary, which means that the admiralty territorial approach must give way - Whether by virtue of their differing subject matter over which each court exercises jurisdiction, the admiralty court must defer to or, at least, be seen to be cooperative with, the directions of the bankruptcy court - Whether the response of Canadian courts must be uniform.

Mark E. Meland for the appellants Van Doosselaere, et al. (27905).

David G. Colford for the appellants Deroy, et al. (27290).

Richard L. Desgagnés and Véronique Marquis pour les intimées Holt Cargo, et al. (27905).

Thomas E. Hart and Jane O'Neill for the respondent Holt Cargo (27290).

Nature de la cause (27905):

Droit international - droit commercial - conflit de lois - faillite - les questions en litige dans la présente affaire sont-elles d'abord liées aux lois de la faillite ou aux lois maritimes? - le Canada est-il favorable à une approche « universelle » ou « territoriale » en ce qui concerne les cas internationaux d'insolvabilité et de faillite? - quel tribunal canadien a la compétence pour accueillir une demande d'aide du tribunal de la faillite de Belgique et prononcer un jugement à ce sujet?

Nature de la cause (27290):

Droit international - Droit maritime - Droit commercial - Faillite - Conflit de lois - Sûretés - Privilège maritime - Dans les faillites internationales, la démarche universelle devrait-elle être adoptée à moins qu'il n'existe des motifs d'ordre public exigeant le contraire, ce qui signifierait que la démarche territoriale en matière d'amirauté doive céder le pas? - Compte tenu des différentes matières sur lesquelles les tribunaux exercent leur compétence, le tribunal de l'amirauté doit-il faire preuve de retenue envers les directives du tribunal de la faillite ou, à tout le moins, paraître faire preuve de collaboration à son égard? - La réponse des tribunaux canadiens doit-elle être uniforme?

21.3.2001

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

The Law Society of British Columbia

v. (27108)

Jaswant Singh Mangat, et al. (B.C.)(Civil)(By Leave)

William S. Berardino, Q.C. and Elizabeth B. Lyall for the appellant.

Neena Sharma for the intervener Attorney General of British Columbia.

Michel Y. Hélie for the intervener Attorney General for Ontario.

Rodney G. Garson for the intervener Attorney General of Manitoba.

Mira J. Thow for the intervener Canadian Bar Association.

Jack Giles, Q.C. and Susan B. Horne for the respondent Jill Sparling.

Richard R. Sugden, Q.C. and Craig P. Dennis for the respondent J.S. Mangat.

Urszula Kaczmarczyk, Kevin Lunney and Brenda Carbonell for the intervener Attorney General of Canada.

Malcolm N. Roby for the intervener Association of Immigration Counsel of Canada.

Jack Giles, Q.C. and Susan B. Horne for the intervener Organization of Professional Immigration Consultants Inc.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Constitutional law - Paramountcy of federal statutes - Barristers and Solicitors - Unauthorized practice of law - Statutes - Interpretation - Whether s 26 of the *Legal Profession Act*, S.B.C. 1987 c.25 is constitutionally inoperative or inapplicable to persons acting under ss. 30 and 69 of the *Immigration Act*, R.S.C. 1985, c. I-2 and its associated Rules and Regulations and, if so, are the latter provisions *ultra vires* Parliament - Whether there is a operational conflict between the two statutory provisions.

Nature de la cause:

Droit constitutionnel - Primauté des lois fédérales - Avocats et procureurs - Pratique illégale du droit - Lois - Interprétation - L'article 26 de la *Legal Profession Act*, S.B.C. 1987 ch. 25, est-il inopérant du point de vue constitutionnel ou inapplicable aux personnes agissant en vertu des art. 30 et 69 de la *Loi sur l'immigration*, L.R.C. (1985), ch. I-2, et ses textes d'application? - Dans l'affirmative, ces dispositions excèdent-elles la compétence du Parlement? - Y a-t-il un conflit d'application entre les deux dispositions législatives?

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 4

Harper v. Canada (Attorney General), [2000] 2 S.C.R. 764, 2000 SCC 57

Musqueam Indian Band v. Glass, [2000] 2 S.C.R. 633, 2000 SCC 52

R. v. Avetysan, [2000] 2 S.C.R. 745, 2000 SCC 56

R. v. Beauchamp, [2000] 2 S.C.R. 720, 2000 SCC 54

R. v. Charlebois, [2000] 2 S.C.R. 674, 2000 SCC 53

R. v. Knoblauch, [2000] 2 S.C.R. 780, 2000 SCC 58

R. v. Russell, [2000] 2 S.C.R. 731, 2000 SCC 55

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 4

Bande indienne de Musqueam c. Glass, [2000] 2 R.C.S. 633, 2000 CSC 52

Harper c. Canada (Procureur général), [2000] 2 R.C.S. 764, 2000 CSC 57

R. c. Avetysan, [2000] 2 R.C.S. 745, 2000 CSC 56

R. c. Beauchamp, [2000] 2 R.C.S. 720, 2000 CSC 54

R. c. Charlebois, [2000] 2 R.C.S. 674, 2000 CSC 53

R. c. Knoblauch, [2000] 2 R.C.S. 780, 2000 CSC 58

R. c. Russell, [2000] 2 R.C.S. 731, 2000 CSC 55

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
19	20	21	22	23	24	25
26	27	28	29	30		

DECEMBER - DECEMBRE						
S D	M L	T M	W M	T J	F V	S S
					1	2
3	M 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						

- 2001 -

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

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

APRIL - AVRIL						
S D	M L	T M	W M	T J	F V	S S
1	2	3	4	5	6	7
8	9	10	11	12	H 13	14
15	H 16	M 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	R 4	R 5
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
					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	29	30

Sittings of the court:
Séances de la cour:

Motions:
Requêtes:

Holidays:
Jours fériés:

M
H

18 sitting weeks / semaines séances de la cour

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