

**SUPREME COURT  
OF CANADA**



**COUR SUPRÊME  
DU CANADA**

**BULLETIN OF  
PROCEEDINGS**

**BULLETIN DES  
PROCÉDURES**

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**APPLICATIONS FOR LEAVE TO  
APPEAL FILED**

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

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**Ruth A. Laseur**

Anne S. Clark  
Workers' Advisers Program

v. (28370)

**Workers' Compensation Board of Nova Scotia, et  
al (N.S.)**

David P.S. Farrar  
Stewart McKelvey Stirling Scales

FILING DATE 5.1.2001

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**Donald Martin**

Anne S. Clark  
Workers' Advisers Program

v. (28372)

**Workers' Compensation Board of Nova Scotia, et  
al. (N.S.)**

David P.S. Farrar  
Stewart McKelvey Stirling Scales

FILING DATE 5.1.2001

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**Abdul Momen Shahnawaz**

P. Andras Schreck  
Pinkofsky Lockyer

v. (28265)

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

Bev Wilton  
A. G. of Ontario

FILING DATE 8.1.2001

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**Ioan Melinte**

Ioan Melinte

v. (28371)

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

Leena Jaakkimainen  
A.G. of Canada

FILING DATE 26.1.2001

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**APPLICATIONS FOR LEAVE**

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

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**SUBMITTED TO COURT SINCE LAST  
ISSUE**

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**FEBRUARY 19, 2001 / LE 19 FÉVRIER 2001**

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

**Gerald Michael Vaughan**

**v. (27887)**

**Her Majesty the Queen  
and the  
Administrator of the Penetanguishene Mental Health Centre**

**AND BETWEEN**

**Gerald Michael Vaughan**

**v.**

**Her Majesty the Queen  
and the  
Administrator of the Penetanguishene Mental Health Centre**

**AND BETWEEN**

**Gerald Michael Vaughan**

**v.**

**Her Majesty the Queen  
and the  
Administrator of the Penetanguishene Mental Health Centre**

**AND BETWEEN**

**Gerald Michael Vaughan**

**v.**

**Ontario Review Board (Crim.)(Ont.)**

**NATURE OF THE CASE**

Criminal law - Procedural law - Mental disorder - Whether the court of appeal erred in holding that there was no merit to the procedural issues raised by the Applicant - Whether the court of appeal erred in dismissing the appeal without determining the issues raised in the Applicant's factum - Whether the court of appeal demonstrated bias toward the Applicant - Whether the Applicant had the right to waive his hearing under the mental disorder provisions of the *Criminal Code*

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**PROCEDURAL HISTORY**

May 15, 1997 Ontario Review Board	Order that the Applicant's detention continue
May 5, 1998 Ontario Review Board	Order that the Applicant's detention continue
May 5, 1999 Ontario Review Board	Order that the Applicant's detention continue
October 26, 1999 Court of Appeal for Ontario (Doherty, Rosenberg and Feldman JJ.A.)	Applicant's appeals from the May 15, 1997, May 5, 1998 and May 5, 1999 review board orders dismissed
March 22, 2000 Supreme Court of Canada	Notice of Application for leave to appeal filed
November 8, 2000 Supreme Court of Canada	Application for leave to appeal (file no. 27887) and motion for the extension of time filed
December 20, 2000 Supreme Court of Canada	Applications for leave to appeal (file nos. 27887) and motions for the extension of time filed

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**Sullvie Poole**

**v. (28285)**

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

**NATURE OF THE CASE**

Canadian Charter - Criminal - Criminal Law - Detention - Sentencing - Dangerous offender provisions - Indeterminate imprisonment - Whether trial judge erred in sentencing applicant to indeterminate imprisonment under dangerous offender provisions - Whether finding of sentencing judge that applicant is a dangerous offender involves an error of law, fact, or mixed law and fact - Whether sentencing judge placed too much emphasis or complete reliance upon past behaviour and criminal record and ignored current circumstances or fettered his discretion by accepting conclusions of a report and evidence without assessing the merits of the conclusions - Whether trial judge misinterpreted dangerous offender provisions - Standard required by a proper interpretation of s. 753(1) for not declaring an offender to be a dangerous offender - Whether assessment provisions set out in s. 752.1(1) of the *Criminal Code* consistent with *Charter* - Whether assessment provisions compel applicant to provide evidence against himself, to provide information in circumstances that amount to unreasonable search and seizure, are unconstitutionally vague or infringe ss. 7, 8 or 11 of the *Charter* - *Criminal Code*, R.S.C. 1985, c. C-46, ss. 752, 753 and 759.

**PROCEDURAL HISTORY**

May 12, 1998 Supreme Court of British Columbia (Mackenzie J.)	Conviction for robbery
September 10, 1998 Supreme Court of British Columbia	Remand for dangerous offender assessment

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(Collver J.)

January 29, 1999  
Supreme Court of British Columbia  
(Collver J.)

Designated dangerous offender; sentenced to indeterminate  
detention in a penitentiary

August 18, 2000  
Court of Appeal of British Columbia  
(Lambert, Braidwood and Hall J.)

Appeal dismissed

November 29, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**Greyhound Canada Transportation Corp.**

**v. (28097)**

**Mariusz Brzozowski, Kazimierz Kowalski and The Workers Compensation Board (B.C.)**

**NATURE OF THE CASE**

Administrative law - Judicial review - Jurisdiction - Workers' compensation - Whether the injuries suffered by the Respondents arose out of, and in the course of, their employment - Did the Court of Appeal of British Columbia err in holding that it could not review the reasoning of a Workers' Compensation Board's decision - Is the appellate decision inconsistent with *Kovach v. Workers' Compensation Board*, [2000] 1 SCR 55.

**PROCEDURAL HISTORY**

September 9, 1999  
Supreme Court of British Columbia  
(Allan J.)

Petition seeking order to set aside two decisions of the  
Appeal division of the Respondent Worker's Compensation  
Board dismissed

June 1, 2000  
Court of Appeal of British Columbia  
(Southin, Hall, Mackenzie JJ.A.)

Appeal dismissed

August 30, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**Metro-Can Construction Ltd.**

**v. (28133)**

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

**NATURE OF THE CASE**

Taxation - Assessment - Income tax - Partnerships - Debtor's gain on settlement of debts - *Income Tax Act* providing that amount of forgiven debt must be applied against taxpayer's non-capital losses, farm losses, net capital losses and restricted farm losses, in that order - Whether amount of debt forgiveness to be applied at partnership level or at partner level - *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), s. 80(1).

**PROCEDURAL HISTORY**

October 2, 1998  
Tax Court of Canada  
(Bowie J.T.C.C.)

Appeals from income tax assessments for the 1989 and 1990 taxation years dismissed

June 22, 2000  
Federal Court of Appeal  
(Desjardins, Létourneau and McDonald JJ.A.)

Appeal dismissed

September 20, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**Farm Bureau Mutual Insurance Company**

**v. (28134)**

**Ginger M. Berg, a minor, by her Litigation Guardian, Eleanor S. Berg (Ont.)**

**NATURE OF THE CASE**

Procedural law - Civil procedure - Courts - Jurisdiction - Pre-trial procedure - Appropriate forum - Minnesota resident bringing action against Minnesota insurer in Ontario claiming entitlement to statutory accident benefits - Motions judge staying action but Court of Appeal reversing decision - Whether Court of Appeal erred in finding that Ontario was appropriate forum - Whether Court of Appeal failed to apply proper test for determining appropriate forum as outlined in *Amchem Products Inc. v. British Columbia (Workers' Compensation Board)*, [1993] 1 S.C.R. 897 - Whether Court of Appeal erred in finding that motions judge should have considered wording and effect of Power of Attorney and Undertaking signed by Minnesota insurer when determining whether Ontario was proper forum.

**PROCEDURAL HISTORY**

August 4, 1999  
Superior Court of Justice  
(Jennings J.)

Respondent's action stayed

July 21, 2000  
Court of Appeal for Ontario

Respondent's appeal allowed

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(Labrosse, Weiler and Sharpe JJ.A.)

September 20, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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

**Francis Rioux**

**c. (28167)**

**Sa Majesté la Reine (Crim.)(Qué.)**

**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 *Code criminel*

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

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**Hughes Communications Inc.**

**v. (28070)**

**Spar Aerospace Limited**

**AND BETWEEN:**

**Westinghouse Electric Corporation**

**v.**



**Spar Aerospace Limited**

**AND BETWEEN:**

**Motient Corporation**

**v.**

**Spar Aerospace Limited**

**AND BETWEEN:**

**Satellite Transmissions Systems Inc.**

**v.**

**Spar Aerospace Limited (Que.)**

**NATURE OF THE CASE**

International law - Conflict of laws - Articles 3135 and 3148 of the *Civil Code of Québec* - Jurisdiction of Quebec courts - *Forum non conveniens* - Whether the Quebec courts have jurisdiction over the action instituted by the Respondent against the Applicants - Whether loss of reputation constitutes an “injurious act” under art. 3148 C.C.Q. - Whether an injurious act occurred in Quebec - Whether the Respondent suffered damage in Quebec - Whether there is a real and substantial connection between the subject matter of the Respondent’s action and Quebec - Whether jurisdiction should be declined on the basis of the doctrine of *forum non conveniens*?

**PROCEDURAL HISTORY**

October 4, 1999 Superior Court of Quebec (Duval Hesler J.)	Applicants’ motions for declinatory exception and <i>forum non conveniens</i> and for dismissal of the action dismissed
May 24, 2000 Court of Appeal of Québec (Delisle, Otis and Denis [ <i>ad hoc</i> ] JJ.A.)	Appeals dismissed
August 16, 2000 Supreme Court of Canada	Application for leave to appeal filed by Hughes Communications Inc. (1st Application)
August 21, 2000 Supreme Court of Canada	Application for leave to appeal filed by Westinghouse Electric Corporation (2nd Application)
August 23, 2000 Supreme Court of Canada	Application for leave to appeal filed by Motient Corporation (3rd Application)
August 23, 2000 Supreme Court of Canada	Application for leave to appeal filed Satellite Transmissions Systems Inc. (4th Application)

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**Stanley Dwyer**

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v. (28159)

**Cavalluzzo, Hayes, Shilton, McIntyre & Cornish and James K. A. Hayes (Ont.)**

**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

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**Syndicat national des employés municipaux de Pointe-Claire**

c. (27987)

**Marc Boisvert, en sa qualité d'arbitre de griefs**

- et -

**Ville de Pointe-Claire (Qué.)**

**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
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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

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**Franco Cigana**

**c. (28016)**

**Régent Millette, Mireille Saulnier et Éric Saulnier Millette (Qué.)**

**NATURE DE LA CAUSE**

Procédure civile - Droit commercial - Cautionnement - L'ordonnance de cautionnement fixée à 25 000 \$ par le juge Robert est-elle justifiée? - Le juge Fish était-il fondé en droit en rejetant la requête du demandeur pour obtenir un sursis d'exécution alors que la demande d'autorisation d'appel contre l'ordonnance du juge Robert était pendante devant la Cour suprême du Canada, et en rejetant par le fait même l'appel du demandeur en raison du défaut d'avoir fourni le cautionnement exigé? - Article 497 du *Code de procédure civile du Québec*

**HISTORIQUE PROCÉDURAL**

Le 20 mai 1998  
Cour supérieure du Québec  
(Bélanger j.c.s.)

Requêtes des intimés accueillie; demandeur condamné à payer 979 937,29\$ plus intérêts aux intimés pour l'ensemble des seize réclamations (dossiers A à P)

Le 16 septembre 1998  
Cour d'appel du Québec  
(Mailhot j.c.a.)

Requête de l'intimé (R. Millette) pour cautionnement accueillie en partie; demandeur condamné à verser cautionnement de 7 000\$ (dossiers A, F, G, J, K, L, M, N)

Le 16 septembre 1998  
Cour d'appel du Québec  
(Mailhot j.c.a.)

Requête de l'intimé (R. Millette) pour cautionnement accueillie en partie; 2682-2678 Québec Inc. condamnée à verser cautionnement de 10 000\$ (dossiers B et E)

Le 15 décembre 1998  
Cour d'appel du Québec  
(Brossard, Chamberland et Forget jj.c.a.)

Requête de l'intimé (R. Millette) en rejet de l'appel du demandeur rejetée

Le 20 juin 2000  
Cour d'appel du Québec  
(Michel j.c.a.)

Requête de l'intimé pour cautionnement accueillie; demandeur condamné à verser cautionnement de 25 000 \$ (dossiers O et P)

Le 2 août 2000  
Cour d'appel du Québec  
(Fish j.c.a.)

Requête du demandeur en reprise d'instance en cautionnement (Millette) rejetée (dossier D)

Le 2 août 2000  
Cour d'appel du Québec  
(Fish j.c.a.)

Appel et sursis du demandeur (Cigana) rejetés avec dépens (dossiers O et P)

Le 18 juillet octobre 2000  
Cour suprême du Canada

Demande d'autorisation d'appel déposée  
(première demande, relative au jugement du 20 juin 2000,  
dossiers O et P)

Le 2 octobre 2000  
Cour suprême du Canada

Demande d'autorisation d'appel déposée (deuxième  
demande, relative au jugement du 2 août 2000 - dossiers  
O et P)

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**Anraj Fish Products Industries Ltd. and Bengal Seafoods Inc.**

**v. (28125)**

**Hyundai Merchant Marine Co. Ltd. (F.C.)**

**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

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

**Her Majesty the Queen**

**v. (28245)**

**Catherine Huff (Crim.)(Ont.)**

**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 *Criminal Code*

November 5, 1999  
Ontario Superior Court of Justice (sitting as a summary conviction appeal court)  
(Wren J.)

Appeal against conviction allowed; new trial ordered

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

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**Larry Drury and William Hazard**

**v. (28306)**

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

**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

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**Joseph Shaun Finnessey**

v. (28251)

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

**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

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**Rolston Ricardo Moffatt**

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v. (27895)

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

**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

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**Douglas Sloan**

v. (28150)

**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 and Unknown others, personally and as agents or officers of the York Region District School Board (Ont.)**

**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  
Supreme Court of Canada

Application for leave to appeal filed

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**Henry McAlister Lang**

**v. (28142)**

**Yolanda Naccarato (Ont.)**

**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

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**PROCEDURAL HISTORY**

July 10, 1998 Tax Court of Canada (O'Connor J.T.C.C.)	Applicants' appeals from reassessments allowed; matter referred back to Minister of National Revenue
May 24, 2000 Federal Court of Appeal (Décary, Rothstein and Sharlow JJ.A.)	Respondent's appeal allowed with costs; judgment of Tax Court Judge varied and reassessments referred back to Minister of National Revenue for reassessment
August 22, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**27961**      **THE GAZETTE, UNE DIVISION DE SOUTHAM INC. - c. - CONSEIL DU RÉFÉRENDUM, L'HONORABLE LOUIS-CHARLES FOURNIER, J.C.Q., L'HONORABLE RÉMI BOUCHARD, J.C.Q., L'HONORABLE PAUL MAILLOUX, J.C.Q. ET PIERRE-F. CÔTÉ, C.R.**  
(Qué.) (Civile)

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

La demande d'autorisation d'appel est rejetée avec dépens en faveur de l'intimé Pierre-F. Côté, c.r.

The application for leave to appeal is dismissed with costs to the respondent Pierre-F. Côté, Q.C.

**NATURE DE LA CAUSE**

Droit administratif - Contrôle judiciaire - Législation - Textes réglementaires - Interprétation des articles 488 et 570 de la *Version spéciale de la Loi électorale pour la tenue d'un référendum* - Quelles sont les limites au droit du public à l'information relative à une démarche référendaire ? - Est-ce qu'un bulletin de vote est un «document» au sens de la *Version spéciale* ? - L'article 570 de la *Version spéciale* interdit-il tout accès du public aux bulletins de vote dépouillés après un référendum ?

**HISTORIQUE PROCÉDURAL**

Le 3 avril 1997 Cour supérieure du Québec (Piché j.c.s.)	Requête en révision judiciaire de la demanderesse rejetée
Le 10 avril 2000 Cour d'appel du Québec (Brossard, Rochette jj.c.a. et Philippon j.c.a. ( <i>ad hoc</i> ))	Appel rejeté
Le 9 juin 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

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**26384**      **DAVID JONATHAN WILD - v. - HER MAJESTY THE QUEEN** (B.C.) (Criminal)

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

The application for leave to appeal is dismissed.

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La demande d'autorisation d'appel est rejetée.

**NATURE OF THE CASE**

Criminal law - Murder - Criminal insanity - Jury charge - New psychiatric evidence - Whether new evidence ought to be admitted for consideration on this application for leave to appeal - Whether the Court of Appeal erred in holding that the evidence of the Crown's expert witness did not go beyond what is permitted when he commented on the believability of the Applicant's evidence that he had ingested Ms. Jacobsen's sleeping pills - Whether the Court of Appeal erred in failing to recognize that the trial judge's comment with respect to the Applicant's evidence was so prejudicial as to warrant a new trial - Whether the Court of Appeal erred in holding that the trial judge's charge was not deficient despite the fact that it defines reasonable doubt as "a doubt based on gaps or loopholes in the evidence" and as a doubt "you could be capable of explaining to other members of the jury."

**PROCEDURAL HISTORY**

November 30, 1989 Supreme Court of British Columbia (Skipp J.)	Applicant convicted of second degree murder contrary to s. 218 of the <i>Criminal Code</i>
March 24, 1993 Court of Appeal of British Columbia (Toy, Taylor and Rowles JJ.A.)	Appeal against conviction dismissed
December 8, 1997 Supreme Court of Canada	Application for leave to appeal and motion to adduce further evidence filed
August 12, 1998 Supreme Court of Canada (Iacobucci J.)	Motion that application for leave to appeal be held in abeyance granted
October 25, 2000 Supreme Court of Canada	Amended application for leave to appeal and motion to adduce further evidence filed

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**27827**      **VADIM GINDIS - v. - RITCHIE SCOTT BRISBOURNE** (B.C.) (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**

Torts - Insurance - Settlements - Unconscionable transactions - Victim of motor vehicle accident settles claim with tortfeasor's insurer - Whether settlement agreement unconscionable - Analysis to be applied in determination unconscionability - Whether law is in a state of confusion regarding how to determine unconscionability generally or in regard to releases of insurance and tort claims - Whether alternative approaches to determine unconscionability are applied inconsistently between provinces - Whether Court of Appeal erred in setting aside the trial judge's decision - Whether

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Court of Appeal substituted conclusions of fact - Whether Court of Appeal erred in holding that the issue of deducting Canadian Pension Plan benefits from an award for lost earnings was moot.

**PROCEDURAL HISTORY**

June 12, 1997 Supreme Court of British Columbia (Smith J.)	Applicant's action allowed; settlement agreement set aside and Applicant awarded \$224,189.00 in damages
January 28, 2000 Court of Appeal for British Columbia (Prowse, Newbury and Saunders JJ.A.)	Appeal allowed; Applicant's cross-appeal dismissed as moot
March 28, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**28059**      **APOTEX INC. - v. - ATTORNEY GENERAL OF CANADA, THE MINISTER OF HEALTH, MERCK & CO. INC. AND MERCK FROSST CANADA INC.** (FC) (Civil)

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

The ancillary motion and the application for leave to appeal are dismissed with costs to the respondents the Attorney General of Canada, the Minister of Health, Merck & Co. Inc. and Merck Frosst Canada Inc.

La requête accessoire et la demande d'autorisation d'appel sont rejetées avec dépens en faveur des intimés le Procureur général du Canada, le Ministre de la Santé, Merck & Co. Inc. et Merck Frosst Canada Inc.

**NATURE OF THE CASE**

Property Law - Food and drugs - Patents - Statutes - Interpretation - Challenge to regulations - Legitimate expectations - Whether regulations are invalid as being *ultra vires* the authority conferred upon the Governor in Council - Whether an express limitation in a statute can be effectively overridden when the "purpose" of the statute as a whole is perceived to justify a "broad" interpretation - Whether the doctrine of legitimate expectations can be applied to delegated legislative exercises - *Patent Act*, R.S.C. 1985, c. P-4., s. 55.2 - *Patent Act Amendment Act, 1992*, S.C. 1993, c. 2 - *Patented Medicines (Notice of Compliance) Regulations*, SOR/93-133

**PROCEDURAL HISTORY**

November 22, 1996 Federal Court of Canada, Trial Division (MacKay J.)	<i>Patented Medicines (Notice of Compliance) Regulations</i> valid
May 12, 2000 Federal Court of Appeal (Décary, Sexton and Evans JJ.A.)	Appeal dismissed
August 11, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**27910**                    **JACQUES CHAOULLI - c. - MINISTRE DE LA SANTÉ ET DES SERVICES SOCIAUX ET  
PROCUREUR GÉNÉRAL DU QUÉBEC** (Qué.) (Civile)

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**

*Charte canadienne des droits et libertés* - Droit administratif - Droit des professions - Requête en *mandamus* - Le droit d'un médecin omnipraticien, légalement autorisé à exercer la médecine, à faire un examen de radiologie diagnostique spécifique à l'exercice de sa profession - Si, selon les circonstances, en n'exerçant pas son pouvoir réglementaire, un gouvernement peut être coupable de violation de l'article 7 de la *Charte canadienne des droits et libertés*, notamment au regard de la condamnation au civil d'un médecin pour ne pas avoir fait, dans une situation donnée, une chose que le Ministre lui interdit officiellement de faire, et que ce dernier tolère pourtant qu'il fasse - La question de savoir si en l'espèce, le pouvoir réglementaire est lié ou discrétionnaire - Advenant que le pouvoir soit discrétionnaire, la question de savoir si dans le cadre d'un *mandamus*, le fardeau de la preuve de la mauvaise foi est renversé sur le dos de l'intimé, et la question de savoir si un ensemble de faits avérés et de faits présumés peuvent amener une Cour à conclure à la mauvaise foi.

**HISTORIQUE PROCÉDURAL**

Le 18 février 1999  
Cour supérieure du Québec  
(Halperin j.c.s.)

Requête en *mandamus* ré-amendée rejetée

Le 28 mars 2000  
Cour d'appel du Québec  
(Gendreau, Otis et Denis [*ad hoc*] jj.c.a.)

Appel rejeté

Le 15 mai 2000  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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**28252**                    **JACQUES CHAOULLI - c. - RÉGIE DE L'ASSURANCE-MALADIE DU QUÉBEC** (Qué.)  
(Civile)

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**

Procédure - Exception déclinatoire - La Cour supérieure a-t-elle commis une erreur manifeste, grave et déterminante au point d'infirmer le jugement de première instance, en ce que le juge de première instance a accueilli l'exception déclinatoire, alors qu'en vertu des articles 33 et 846, 1er alinéa, 4ème et 2ème alinéas, le demandeur réunissait les conditions requises par la loi afin pour sa requête en évocation fut entendue au fond - La Cour d'appel, en rejetant la permission d'appeler, a-t-elle exercé sa discrétion d'une manière manifestement déraisonnable.

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**HISTORIQUE PROCÉDURAL**

Le 26 mai 2000  
Cour supérieure du Québec  
(Jasmin j.c.s.)

Requête en révision judiciaire accueillie; sentence arbitrale rendue le 19 janvier 2000 par Me Germain Jutras annulée

Le 19 juillet 2000  
Cour supérieure du Québec  
(Côté j.c.s.)

Exception déclinatoire en irrévocabilité accueillie; requête en sursis d'exécution d'une pénalité financière rejetée; requête en évocation avant sentence arbitrale rejetée

Le 20 septembre 2000  
Cour d'appel du Québec  
(Deschamps j.c.a.)

Requête en permission d'appeler rejetée

Le 31 octobre 2000  
Cour suprême du Canada

Demandes d'autorisation d'appel et en sursis déposées

Le 12 décembre 2000  
Cour suprême du Canada  
(LeBel J.)

Demande en sursis rejetée

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**28253**      **JACQUES CHAOULLI - c. - PROCUREURE GÉNÉRALE DU QUÉBEC** (Qué.) (Civile)

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

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

The application for leave to appeal is dismissed with costs.

**NATURE DE LA CAUSE**

Procédure - Requête pour présenter une nouvelle preuve - Critères - Est-ce que la Cour d'appel a erré en ce que le dossier tel que présenté devant elle, précisait le contenu du document présenté à titre de preuve nouvelle?

**HISTORIQUE PROCÉDURAL**

Le 25 février 2000  
Cour supérieure du Québec  
(Piché j.c.s.)

Requête en jugement déclaratoire déclarant inconstitutionnels les articles 15 de la *Loi sur l'assurance-maladie* et 11 de la *Loi sur l'assurance-hospitalisation*, rejetée

Le 25 septembre 2000  
Cour d'appel du Québec  
(Proulx, Forget et Thibault jj.c.a.)

Requête pour présenter une preuve nouvelle rejetée

Le 31 octobre 2000  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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28113

**ONTARIO TEACHERS' FEDERATION ("OTF"), PHYLLIS BENEDICT, NEIL SIMPSON AND MARET SADEM-THOMPSON ON THEIR OWN BEHALF AND ON BEHALF OF ALL MEMBERS OF THE ELEMENTARY TEACHERS' FEDERATION OF ONTARIO, ELEMENTARY TEACHERS' FEDERATION OF ONTARIO ("ETFO"), KENNETH SHEPPARD, ROBERT WHETTER AND LLOYD HAINES ON THEIR OWN BEHALF AND ON BEHALF OF ALL MEMBERS OF THE ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION; ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION ("OSSTF"), LINDA FROST ON HER OWN BEHALF AND ON BEHALF OF ALL MEMBERS OF THE ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION; ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION ("OECTA"), ROBERT BERUBÉ ON HIS OWN BEHALF AND ON BEHALF OF ALL MEMBERS OF L'ASSOCIATION DES ENSEIGNANTES ET DES ENSEIGNANTS FRANCO-ONTARIENS AND L'ASSOCIATION DES ENSEIGNANTES ET DES ENSEIGNANTS FRANCO-ONTARIENS ("AEFO") - v. - ATTORNEY GENERAL OF ONTARIO (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**

*Canadian Charter of Rights and Freedoms* - Civil - Freedom of expression - Freedom of association - Labour law - Labour Relations - Unions - Collective bargaining - Sections 2(b) and (d) of the *Charter* - Amendments to Bill 160 dealing with principals and vice-principals objected to by the Applicants - Whether the purpose or effect of Bill 160 constitutes a penalty or reprisal for engaging in constitutionally protected activity - Whether a protest in opposition to Bill 160 in the form of a withdrawal of services by working people is entitled to the same protection under s. 2(b) of the *Charter* as other forms of expressive activity - Whether Bill 160 violates s. 2(b) or (d) of the *Charter*.

**PROCEDURAL HISTORY**

March 17, 1998  
Superior Court of Justice  
(Southey J.)

Application for declarations that the provisions of *Bill 160* contravened the *Charter* dismissed

June 7, 2000

Appeal dismissed with costs

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

September 6, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**27208**            **CAMCO INC. AND GENERAL ELECTRIC COMPANY - v. - WHIRLPOOL CORPORATION  
AND INGLIS LIMITED** (FC) (Civil)

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

The motion for rehearing is dismissed with costs.

La demande de nouvelle audition est rejetée avec dépens.

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**27209**            **MAYTAG CORPORATION, MAYTAG LIMITED AND MAYTAG QUEBEC INC. - v. -  
WHIRLPOOL CORPORATION AND INGLIS LIMITED** (FC) (Civil)

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

The motion for rehearing is dismissed with costs.

La demande de nouvelle audition est rejetée avec dépens.

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9.2.2001

Before / Devant: THE REGISTRAR

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

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

Dwayne W. Hynes

v. (27443)

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

**GRANTED / ACCORDÉE** Time extended to February 8, 2001.

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12.2.2001

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the response of the respondent Donald R. Sagers**

**Requête en prorogation du délai de signification et de dépôt de la réponse de l'intimé Donald R. Sagers**

City of Calgary and Calgary Civic Employees Benefit Society, et al.

v. (28266)

Donald R. Sagers, et al. (Alta.)

**GRANTED / ACCORDÉE** Time extended to February 9, 2001.

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12.2.2001

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**

Chee K. Ling

v. (28315)

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

**GRANTED / ACCORDÉE** Time extended to February 7, 2001.

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12.2.2001

Before / Devant: THE REGISTRAR

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

**Requête en prorogation du délai imparti pour signifier et déposer les mémoire, dossier et recueil de jurisprudence et de doctrine de l'intimée**

Gerald Augustine Regan

v. (27541)

Her Majesty the Queen (Crim.)(N.S.)

**GRANTED / ACCORDÉE** Time extended to January 31, 2001.

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12.2.2001

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the appellant'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'appelant**

Terrence Blake Scott

v. (27781)

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

**GRANTED / ACCORDÉE** Time to serve and file the appellant's factum extended to January 17, 2001, *nunc pro tunc*. Time to serve and file the appellant's book of authorities extended to February 6, 2001, *nunc pro tunc*.

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13.2.2001

Before / Devant: MAJOR J.

**Further order on motion for leave to intervene**

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

Tom Dunmore, et al.

v. (27216)

Attorney General for the Province of Ontario, et al.  
(Ont.)

**UPON APPLICATION** by the Canadian Labour Congress and the Labour Issues Coordinating Committee for leave to intervene in the above appeal and pursuant to the orders of July 21, 2000 and November 7, 2000 thereon;

**IT IS HEREBY FURTHER ORDERED THAT** the intervener Canadian Labour Congress is granted permission to present oral argument not to exceed 15 minutes and the intervener Labour Issues Coordinating Committee's request to present oral argument is dismissed.

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13.2.2001

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Before /Devant: L'HEUREUX-DUBÉ J.

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

BY/PAR: Metro Toronto Chinese & Southeast  
Asian Legal Clinic

IN/DANS: A.L.R.

v. (27659)

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

**GRANTED / ACCORDÉE**

**UPON APPLICATION** by the Metro Toronto Chinese & Southeast Asian Legal Clinic 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 Metro Toronto Chinese & Southeast Asian Legal Clinic 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 interveners shall pay to the appellant and respondent any additional disbursements occasioned to the appellant and respondent by the intervention.

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15.2.2001

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the appellant'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'appelante**

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** Time extended to December 15, 2000.

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15.2.2001

Before / Devant: IACOBUCCI J.

**Motion to permit filing of an appellant reply factum**

**Requête en autorisation de dépôt par l'appelante d'un mémoire en réplique**

The General Manager, Liquor Control and Licensing Branch

v. (27371)

Ocean Port Hotel Limited (B.C.)

**GRANTED / ACCORDÉE**

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15.2.2001

Before / Devant: THE REGISTRAR

**Miscellaneous motion**

**Autre requête**

Ivon Shearing

v. (27782)

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

**GRANTED / ACCORDÉE** Motion by the appellant for an order sealing Volume 14 of the appellant's record is granted.

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16.2.2001

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Before / Devant: ARBOUR J.

**Further order on motion for leave to intervene**

BY/PAR: Procureur général de l'Ontario

IN/DANS: Sa Majesté la Reine

c. (27652)

Réjean Parent (Crim.)(Qué.)

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

**À LA SUITE D'UNE DEMANDE** du Procureur général de l'Ontario visant à obtenir l'autorisation d'intervenir dans l'appel susmentionné et suite à l'ordonnance du 30 octobre 2000;

**IL EST EN OUTRE ORDONNÉ** que la plaidoirie de l'intervenant soit ainsi limité à quinze (15) minutes.

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19.2.2001

Before / Devant: THE REGISTRAR

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

Donald Russell

v. (27732)

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

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

**GRANTED / ACCORDÉE** Time extended to February 8, 2001.

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**NOTICES OF INTERVENTION FILED  
SINCE LAST ISSUE**

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

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BY/PAR: Attorney General for Alberta

IN/DANS: **Richard Sauvé, et al.**

**v. (27677)**

**Chief Electoral Officer of Canada, et al. (F.C.)**

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**APPEALS HEARD SINCE LAST ISSUE  
AND DISPOSITION**

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

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15.2.2001

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

**Ian Vincent Golden**

**v. (27547)**

**Her Majesty the Queen (Crim.)(Ont.)(By Leave)**

David M. Tanovich for the appellant.

Donald McLeod and Julian K. Roy for the intervener African Canadian Legal Clinic.

Kent Roach and Kimberly Murray for the intervener Aboriginal Legal Services of Toronto.

Frank Addario and Jonathan Dawe for the intervener Canadian Civil Liberties Association.

J.W. Leising and Morris Pistyner for the respondent.

Michael Bernstein for the intervener the Attorney General for Ontario.

David Migicovsky and Lynda Bordeleau for the intervener Canadian Association of Chiefs of Police.

**RESERVED / EN DÉLIBÉRÉ**

**Nature of the case:**

*Canadian Charter of Rights and Freedoms* - Criminal law - Whether the Court of Appeal erred in concluding that the strip search of the Appellant did not violate section 8 of the *Charter* - If the strip search of the Appellant violated section 8 of the *Charter*, would the admission of the evidence bring the administration of justice into disrepute under section 24(2) of the *Charter*?

**Nature de la cause:**

*Charte canadienne des droits et libertés* - Droit criminel - La Cour d'appel a-t-elle commis une erreur en concluant que la fouille à nu de l'appelant ne portait pas atteinte à l'article 8 de la *Charte*? - Si la fouille à nu de l'appelant porte effectivement atteinte à l'article 8 de la *Charte*, l'admission de la preuve déconsidérerait-elle l'administration de la justice aux termes du paragraphe 24(2) de la *Charte*?

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19.2.2001

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

**Tom Dunmore, et al**

**v. (27216)**

**Attorney General for the Province of Ontario, et al.  
(Ont.)(Civil)(By Leave)**

Chris G. Paliare and Martin J. Doane for the appellants.

Steven Barrett for the intervener Canadian Labour Congress.

Richard J.K. Stewart for the respondent Attorney General for the Province of Ontario.

Alan L. W. D'Silva, Darrell L. Kloeze and Vincent C. Kazmierski for the respondent Fleming Chicks.

Aucune comparution pour l'intervenante Procureure

générale du Québec (soumission par Renée Madore et Monique Rousseau).

Rod Wiltshire for the intervener Attorney General for Alberta.

No one appeared for the intervener Labour Issues Coordinating Committee (written submission by John C. Murray and Jonathan L. Dye).

**RESERVED / EN DÉLIBÉRÉ**

**Nature of the case:**

*Canadian Charter of Rights and Freedoms - Civil - Freedom of Association - Equality rights - Labour law - Labour relations - Unions - Collective bargaining - Sections 2(d) and 15(1) of the Canadian Charter of Rights and Freedoms - Whether the exclusion of agricultural workers from Ontario's statutory labour relations system violates their freedom of association under s. 2(d) of the Charter - Whether the enactment of legislation which directly or indirectly results in the limitation of a fundamental freedom, through the intermediary, of private power constitutes government action subject to review under the Charter - Whether the exclusion of agricultural workers from Ontario's statutory labour relations system violates their rights to equal protection and benefit of the law under s. 15(1) of the Charter - Whether discrimination on the basis of membership in a group defined by occupational status, in circumstances where that status is associated with disadvantage and powerlessness in society, may constitute discrimination on a ground analogous to the enumerated grounds in s. 15(1) of the Charter?*

**Nature de la cause:**

*Charte canadienne des droits et libertés - Droit civil - Liberté d'association - Droit à l'égalité - Droit du travail - Relations de travail - Syndicats - Négociations collectives - Al. 2d) et par.15(1) de la Charte canadienne des droits et libertés - L'exclusion des travailleurs agricoles du régime législatif de relations de travail de l'Ontario viole-t-elle leur liberté d'association prévue à l'al. 2d) de la Charte? L'édiction d'une loi qui porte directement ou indirectement atteinte à une liberté fondamentale par l'intermédiaire d'un pouvoir privé constitue-t-elle une action gouvernementale susceptible de révision en vertu de la Charte? - L'exclusion des travailleurs agricoles du régime législatif de relations de travail de l'Ontario viole-t-elle leur droit à la même protection et au même bénéfice de la loi prévu au par.15(1) de la Charte? - Une discrimination du fait de l'appartenance à un groupe défini par le statut professionnel, lorsque ce statut est synonyme de désavantage et de privation de pouvoir dans la société, peut-elle constituer une discrimination fondée sur un motif analogue à ceux énumérés au par. 15(1) de la Charte?*



20.2.2001

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

**Mattel Canada Inc.**

**v. (27174)**

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

Darrel H. Pearson, Richard S. Gottlieb and Jeffery D. Jenkins for the appellant (respondent on cross-appeal).

Richard W. Pound, Q.C. and Glenn A. Cranker for the intervener Reebok Canada Inc.

Edward R. Sojonky, Q.C. and Frederick B. Woyiwada for the respondent (appellant on cross-appeal).

**RESERVED / EN DÉLIBÉRÉ**

**Nature of the case:**

Taxation - Customs and excise - Royalties - What is the standard of review required in this review of the *Customs Act* "sale for export" and "subsequent proceeds" issues - Whether Court of Appeal erred in finding that the transaction value of the goods must be adjusted upward pursuant to the s. 48(5)(a)(v) "subsequent proceeds" provision because the royalty payments accrued to the vendor - Whether the Court of Appeal erred in finding that the payment of royalties by the Appellant to Licensor X was not made as "condition of sale".

**Nature de la cause:**

Droit fiscal - Douanes et accise - Redevances - Quelle est la norme de contrôle applicable à l'examen des questions relatives à la « vente pour exportation » et au « produit subséquent » de la *Loi sur les douanes*? - La Cour d'appel a-t-elle commis une erreur en concluant que la valeur transactionnelle des marchandises devait être ajustée à la hausse aux termes de la disposition relative au « produit subséquent » du sous-al. 48(5)a)(v) parce que les redevances doivent revenir au vendeur? - La Cour d'appel a-t-elle commis une erreur en concluant que les redevances versées par l'appelante au concédant de licence X n'ont pas été faites à titre de « condition de la vente »?

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21.2.2001

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

**Werner Patek, et al.**

**c. (27817)**

**Sa Majesté la Reine (Crim.)(Qué.)(De plein droit)**

Christian Desrosiers pour les appelants.

Claude Chartrand et Henri-Pierre Labrie pour l'intimée.

LE JUGE ARBOUR: (oralement)

Nous sommes d'avis que le juge de première instance n'a commis aucune erreur de droit donnant ouverture à un appel de la Couronne en vertu de l'al. 676(1)a) du *Code criminel*, L.R.C. 1985, ch. C-46, et que la majorité de la Cour d'appel a erré en substituant son appréciation des faits à celle du juge du procès.

Le juge du procès s'est bien dirigé en droit et a procédé à un examen détaillé de la preuve. Ses motifs étoffés démontrent qu'il s'est penché sur l'ensemble de la preuve, a apprécié la crédibilité des témoins qui ont comparu devant lui pour tirer des conclusions de fait qui n'étaient pas déraisonnables. Son analyse ne révèle aucune erreur au sens des arrêts *R. c. B. (G.)*, [1990] 2 R.C.S. 57, et *R. c. Morin*, [1992] 3 R.C.S. 286.

En conséquence l'appel est accueilli, le jugement de la Cour d'appel est cassé et l'acquittement des appelants est rétabli. Madame le juge L'Heureux-Dubé, dissidente, aurait rejeté l'appel pour les motifs du juge Chamberland de la Cour d'appel.

[TRANSLATION]

We are of the view that the trial judge did not commit any error of law that would give rise to a Crown appeal under s. 676(1)(a) of the *Criminal Code*, R.S.C. 1985, c. C-46, and that the majority of the Court of Appeal erred in substituting its own assessment of the facts for that of the trial judge.

The trial judge correctly directed himself in law and conducted a detailed examination of the evidence. His extensive reasons show that he considered the evidence in its totality, assessed the credibility of the witnesses who appeared before him in order to arrive at findings of fact that were not unreasonable. His analysis does not reveal any error within the meaning of *R. v. B. (G.)*, [1990] 2 S.C.R. 57, and *R. v. Morin*, [1992] 3 S.C.R. 286.

Accordingly the appeal is allowed, the judgment of the Court of Appeal is set aside and the acquittal of the appellants is restored. Madame Justice L'Heureux-Dubé, dissenting, would have dismissed the appeal for the reasons given by Chamberland J.A. in the Court of Appeal.

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## WEEKLY AGENDA

## ORDRE DU JOUR DE LA SEMAINE

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The Court will not be sitting during the weeks of February 26 and March 5, 2001.  
La Cour ne siègera pas les semaines du 26 février et 5 mars 2001.

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### NOTE:

This agenda is subject to change. Hearing dates should be confirmed with Registry staff at (613) 996-8666.

Cet ordre du jour est sujet à modification. Les dates d'audience devraient être confirmées auprès du personnel du greffe au (613) 996-8666.

## DEADLINES: MOTIONS

## DÉLAIS: REQUÊTES

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### 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** : **March 12, 2001**  
**Service** : February 19, 2001  
**Filing** : February 23, 2001  
**Respondent** : March 2, 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** : **12 mars 2001**  
**Signification** : 19 février 2001  
**Dépôt** : 23 février 2001  
**Intimé** : 2 mars 2001

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## 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.

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
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DECEMBER - DECEMBRE						
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31						

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JANUARY - JANVIER						
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FEBRUARY - FÉVRIER						
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MARCH - MARS						
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APRIL - AVRIL						
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MAY - MAI						
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27	28	29	30	31		

JUNE - JUIN						
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Sittings of the court:  
Séances de la cour:

Motions:  
Requêtes:

Holidays:  
Jours fériés:

M
H

18 sitting weeks / semaines séances de la cour

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