

# SUPREME COURT OF CANADA



# COUR SUPRÊME DU CANADA

## BULLETIN OF PROCEEDINGS

## BULLETIN DES PROCÉDURES

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## NOTICE / AVIS

### **BULLETIN OF PROCEEDINGS SUBSCRIPTION RATE CHANGE**

Schedules A and B to the *Rules of the Supreme Court of Canada* (the tariff of fees payable to the Registrar and the fees taxable between parties) have been replaced. The new tariffs came into force on April 5, 1995, registered as SOR/95-158.

Under the new Schedule A, the cost of an individual issue of the *Bulletin of Proceedings* will be \$10 (effective April 5, 1995) and the annual subscription will be \$200 (effective January 1, 1996) (GST to be added).

### **BULLETIN DES PROCÉDURES CHANGEMENT DU PRIX D'ABONNEMENT**

Les annexes A et B des *Règles de la Cour suprême du Canada* (le tarif des honoraires payables au registraire et des honoraires taxables entre parties) ont été remplacées. Les nouveaux tarifs sont entrés en vigueur le 5 avril 1995 et sont enregistrés sous le n° DORS/95-158.

En vertu de la nouvelle annexe A, le prix d'un exemplaire du *Bulletin des procédures* sera de 10 \$ (à compter du 5 avril 1995) et l'abonnement annuel sera de 200 \$ (à compter du 1<sup>er</sup> janvier 1996) (TPS en plus).

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Legge & Muszynski

v. (24718)

**Her Majesty The Queen (Crim.)(Alta.)**

Donna R. Valgardson  
Dept. of Justice

FILING DATE 23.5.1995

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**Leonard George et al.**

Bruce Clark

v. (24722)

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

John Edmond  
Dept. of Justice

FILING DATE 3.4.1995

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**Alexander MacDonald Holmes**

Alexander M. Holmes

v. (24730)

**Shirley Marie McGrath (N.W.T.)**

Adrian C. Wright  
Phillips and Wright

FILING DATE 23.5.1995

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**Société nationale de l'amiante et al.**

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Desjardins, Ducharme, Stein, Monast

c. (24731)

**Lab Chrysotile Inc. et al. (Qué.)**

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DATE DE PRODUCTION 18.5.1995

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

**Alfred Goodswimmer et al.**

Robert W. Hladun, Q.C.  
Hladun & Co.

v. (24737)

**The Attorney General of Canada et al. (F.C.A.)  
(Ont.)**

Kirk Lambrecht  
A.G. of Canada

FILING DATE 19.5.1995

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**Lorraine Gadoury**

Raymond Doray  
Lavery, de Billy

c. (24738)

**François Fortin (Qué.)**

Jean Rochette  
Dunton, Rainville, Toupin, Perrault

DATE DE PRODUCTION 26.5.1995

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**Gerald M. Snyder**

Claude-Armand Sheppard  
Robinson Sheppard Shapiro

c. (24739)

**Canadian Newspaper Co. Ltd. (Qué.)**

J. Vincent O'Donnell, c.r.  
Lavery, de Billy

DATE DE PRODUCTION 19.5.1995

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**Ewa Pawlak Langner et al.**

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v. (24740)

**The Minister of Employment and Immigration  
et al. (F.C.A.) (Ont.)**

Joanne Granger  
A.G. of Canada

FILING DATE 19.5.1995

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**Tracy Shawn Armstrong**  
Clayton C. Ruby  
Ruby & Edwardh

v. (24741)

**Her Majesty The Queen (Crim.)(Ont.)**  
Gray Trotter  
Dept. of Justice

FILING DATE 19.5.1995

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**The Attorney General of British Columbia**  
Deborah K. Lovett  
Min. of the A.G.

v. (24742)

**Gregory Miles Zutter et al. (B.C.)**  
Frances Kelly  
Community Legal Assistance Society

FILING DATE 18.5.1995

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**The British Columbia Rugby Union**  
David J. Whitelaw  
Killam, Whitelaw & Twining

v. (24743)

**Mark Hamstra, a minor suing by his Father and  
Guardian Ad Litem, Hendrix Hamstra and the  
said Hendrik Hamstra et al. (B.C.)**  
Russell V. Stanton  
A. Ted Ewachniuk & Assoc.

FILING DATE 19.5.1995

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**69971 Manitoba Ltd., carrying on business as  
Barrin Produce**  
D. Hill  
Hill & Abra

v. (24744)

**National Bank of Canada (Man.)**  
C.R. MacArthur, Q.C.  
Aikins, MacAulay & Thorvaldson

FILING DATE 23.5.1995

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**Alfred Goodswimmer et al.**  
Robert W. Hladun, Q.C.  
Hladun & Co.

v. (24745)

**The Attorney General of Canada et al.  
(F.C.A.)(Ont.)**  
George Thomson  
Dep. A.G. of Canada

FILING DATE 19.5.1995

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**Jean Rivard**  
Jean Rivard

c. (24746)

**Sa Majesté La Reine (Crim.)(Qué.)**  
Jean-Pierre St-Jean  
Procureur général du Québec

DATE DE PRODUCTION 30.5.1995

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MAY 30, 1995 / LE 30

MAI 1995

**CORAM: CHIEF JUSTICE LAMER AND GONTHIER AND IACOBUCCI JJ. /  
LE JUGE EN CHEF LAMER ET LES JUGES GONTHIER ET IACOBUCCI**

**Bruce Clark**

**v. (24635)**

**Regina (Crim.)(Ont.)**

**NATURE OF THE CASE**

Criminal law - Indians - Jurisdiction - Applicant convicted of assaulting a peace officer engaged in the execution of his duty contrary to s. 270(1)(a) of the *Criminal Code* - Whether the Provincial Court (Criminal Division) had jurisdiction.

**PROCEDURAL HISTORY**

APPLICATIONS FOR LEAVE  
SUBMITTED TO COURT SINCE LAST ISSUE

DEMANDES SOUMISES À LA COUR DEPUIS  
LA DERNIÈRE PARUTION

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May 12, 1994  
Ontario Court (Provincial Division)  
(Lebel J.)

Conviction: Assaulting a peace officer in the  
execution of his duty contrary to s. 270(1)(a) of the  
*Criminal Code*

June 2, 1994  
Ontario Court (General Division) (Bernstein J.)

Appeal dismissed

February 6, 1995  
Court of Appeal for Ontario  
(Goodman, Catzman and Abella JJ.A.)

Appeal dismissed

February 21, 1995  
Supreme Court of Canada

Application for leave to appeal filed

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**Arnold Williams, Bernard Dick, Keith James, Albert Pascal,  
Reynold Joe, Harold Pascal, Jason Wallace and Henry Saul**

**v. (24637)**

**Regina (Crim.)(B.C.)**

**NATURE OF THE CASE**

Criminal law - Indians - Offences - Jurisdiction - Whether the Provincial Court of British Columbia has jurisdiction over the Applicants who have been charged with offenses under the *Criminal Code* and the *Wildlife Act*.

**PROCEDURAL HISTORY**

November 12, 1993  
Supreme Court of British Columbia  
(Cohen J.)

Appeals from acquittal of Harold Pascal and Jason Wallace dismissed; Appeals from conviction of remaining Applicants dismissed

December 6, 1994  
Court of Appeal for British Columbia  
(Hinds, Hollinrake and Donald JJ.A.)

Appeals of Harold Pascal and Jason Wallace quashed; Appeals of remaining Applicants dismissed

December 16, 1994  
Supreme Court of Canada

Application for leave to appeal filed

---

**John Stevens**

**v. (24636)**

**The Stoney Band (Alta.)**

**NATURE OF THE CASE**

Indians - Procedural law - Action in trespass - Interim injunction - Respondent obtaining interim injunction order against the Applicants - Applicants' application for a stay of that order dismissed by the Court of Appeal - Whether the Court of Appeal aided and abetted the enforcement of an *ultra vires*, treasonable, fraudulent in crimes related to genocide, injunction of the court below.

**PROCEDURAL HISTORY**



January 31, 1995  
Court of Queen's Bench of Alberta  
(Fraser J.)

Interim injunction order: Applicant enjoined from removing timber or entering for the cutting, harvesting, exporting or other logging activities upon Stoney Reserves No. 142, 142B, 143, and 144 and other lands controlled by the Respondent

February 8, 1995  
Court of Appeal of Alberta (Hetherington J.A.)

Appeal dismissed

February 21, 1995  
Supreme Court of Canada

Application for leave to appeal filed

---

**Harold Pascal and Henry Saul**

v. (24638)

**Regina,  
Arnold Williams, Bernard Pascal,  
Keith James, Albert Pascal, Reynold Joe,  
Harold Pascal, Jason Wallace and  
Henry Sault**

**AND BETWEEN**

**Harold Pascal**

v.

**International Forest Products Limited  
and Howe Sound Timber Co. Limited  
- and -**

**Harold Pascal, Bernard Dick, Reynold Joe,  
John Doe, John Doe and John Doe, as  
individuals and as the representatives of  
the persons blocking a road known as  
Ure Creek Mainline**

**AND BETWEEN**

**Shelagh Franklin**

**- and -**

**International Forest Products Limited  
and Howe Sound Timber Co. Limited  
- and -**

**Harold Pascal, Bernard Dick, Reynold Joe,  
John Doe, John Doe and John Doe, as  
individuals and as the representative of  
the persons blocking a road known as  
Ure Creek Mainline (B.C.)**

**NATURE OF THE CASE**

Indians - Procedural law - Appeal - Injunction - Civil procedure - Contempt of court - Jurisdiction - Motion by Applicant to consolidate appeal - Whether Court of Appeal judge erred in dismissing motion.

**PROCEDURAL HISTORY**

February 1, 1991  
Supreme Court of British Columbia  
(Wetmore J.)

Order: interim injunction against Harold Pascal, Bernard Dick, Reynold Joe, John Doe and John Doe as individuals and as representatives of the persons blocking a road known as Ure Creek Mainline from interfering with performance of International Forest Products Limited

September 9, 1994  
Supreme Court of British Columbia  
(Opal J.)

Order: Applicant Shelagh Franklin found to be in breach of February 1, 1991, order; finding of contempt of court

October 31, 1994  
Court of Appeal for British Columbia  
(Proudfoot J.A.)

Application by Shelagh Franklin to consolidate appeal with appeal in *R. v. Williams* dismissed

December 16, 1994  
Supreme Court of Canada

Application for leave to appeal filed

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**Verna Friday and Friday Hunting Grounds Group**

**v. (24639)**

**Attorney General for Ontario,  
The Bear Island Foundation and Gary Potts,  
William Twain and Maurice McKenzie Jr.  
on behalf of themselves and on behalf of all other members of the  
Teme-Augama Anishnabai and the Temagami Band of Indians (Ont.)**

**NATURE OF THE CASE**

Procedural law - Indians - Applicants' motion to extend time to appeal order of Ontario Court of Justice (General Division) dismissed - Whether extensions should be granted where the issue on appeal goes to court jurisdiction and the domestic courts' own alleged crimes related to genocide usurpation of jurisdiction, such that the withholding of the extension has the practical effect of aiding and abetting the said crimes.

**PROCEDURAL HISTORY**

June 1, 1993  
Ontario Court of Justice (General Division)  
(Roberts J.)

Applicants' motion to set aside *Bear Island* appeal dismissed; Applicants prohibited from making further motions without leave; Bruce Clark not to appear as counsel; notice of change of solicitors struck out and Bruce Clark prohibited from acting for Applicants or for any person representing Temagami Anishnabai or Temagami Band of Indians

September 14, 1994  
Court of Appeal for Ontario (Dubin C.J.O.)

Application to extend the time for appealing order of Roberts J. dismissed

November 16, 1994  
Supreme Court of Canada

Application for leave to appeal filed

---

**John Stevens**

**v. (24675)**

**The Stoney Band and  
The Attorney General of Alberta (Alta.)**

NATURE OF THE CASE

Indians - Procedural law - Action in trespass - Interim injunction - Respondent obtaining interim injunction order against the Applicants - Applicants' application for a stay of that order dismissed by the Court of Appeal - Whether the Court of Appeal aided and abetted the enforcement of an *ultra vires*, treasonable, fraudulent in crimes related to genocide, injunction of the court below.

PROCEDURAL HISTORY

APPLICATIONS FOR LEAVE  
SUBMITTED TO COURT SINCE LAST ISSUE

DEMANDES SOUMISES À LA COUR DEPUIS  
LA DERNIÈRE PARUTION

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January 31, 1995  
Court of Queen's Bench of Alberta  
(Fraser J.)

Interim injunction order: Applicant enjoined from removing timber or entering for the cutting, harvesting, exporting or other logging activities upon Stoney Reserves No. 142, 142B, 143, and 144 and other lands controlled by the Respondent

March 20, 1995  
Court of Appeal of Alberta  
(Conrad, McFadyen and O'Leary JJ.A.)

Appeal dismissed

April 3, 1995  
Supreme Court of Canada

Application for leave to appeal filed

---

**Bruce Clark**

**v. (24676)**

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

**NATURE OF THE CASE**

Procedural law - Actions - Civil procedure - Applicant's statement of claim struck out as disclosing no reasonable cause of action and being vexatious - Applicant's action dismissed - Applicant held not to have standing to bring action - Whether the courts below erred in refusing to hear action.

**PROCEDURAL HISTORY**

September 2, 1994  
Federal Court Trial Division  
(Pinard J.)

Applicant's statement of claim struck out

March 15, 1995  
Federal Court of Appeal  
(Pratte, MacGuigan and McDonald JJ.A.)

Appeal dismissed

April 3, 1995  
Supreme Court of Canada

Application for leave to appeal filed

---

**Leonard George, Ke\*Ke\*K, Misa'bi and Friday,  
Shaukeens and Margaret Jean Clark**

v. (24722)

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

**NATURE OF THE CASE**

Procedural law - Indians - Applicants applying for notice of time and place for hearing of respective appeals - Court of Appeal holding that such applications premature - Whether the consequence of the denial of consolidation is delay that prolongs treason, fraud and genocide, and that results in avoidable multiplicity and litigation expense.

**PROCEDURAL HISTORY**

February 23, 1995  
Federal Court Trial Division  
(Richard J.)

Statements of Claim of the Applicants struck out

March 9, 1995  
Federal Court of Appeal  
(Pratte, MacGuigan and McDonald JJ.A.)

Application for time and place of appeals denied as premature

April 3, 1995  
Supreme Court of Canada

Application for leave to appeal filed

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**CORAM: LA FOREST, CORY AND MAJOR JJ. /  
LES JUGES LA FOREST, CORY ET MAJOR**

**Her Majesty the Queen**

**v. (24621)**

**Michael Gerard Gillis (Crim.)(N.B.)**

**NATURE OF THE CASE**

*Canadian Charter of Rights and Freedoms* - Search and seizure - Customs - Evidence - Unreasonable search - Admissibility of evidence - Bringing administration into disrepute - Persons crossing unmanned international borders - Expectation of privacy - Whether a motor vehicle search made by R.C.M.P. officers five hours after and approximately 40 to 50 minutes from the arrest of the Respondent and seizure of the vehicles can be justified as a "border search" under the provisions of the *Customs Act*, R.S.C., 1985 (2nd Supp.) c. 1 - Whether the administration of justice would be brought into disrepute by the admission of the evidence at trial contrary to section 24(2) of the *Charter* and the evidence ought to therefore be excluded.

**PROCEDURAL HISTORY**

December 1, 1993  
Provincial Court of New Brunswick  
(Cumming P.C.J.)

Acquittal: Smuggling alcohol into Canada contrary  
to s.160(b) of the *Customs Act*

January 19, 1995  
Court of Appeal of New Brunswick  
(Hoyt C.J. and Rice and Turnbull JJ.A.)

Appeal dismissed

April 7, 1995  
Supreme Court of Canada

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

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**Alta Surety Company**

**v. (24644)**

**Arnoldin Construction and Forms Limited (N.S.)**

**NATURE OF THE CASE**

Commercial law - Contracts - Guarantee/Suretyship - Subcontract providing that payment would be made when payment was received - Did Court of Appeal correctly interpret term of contract - Whether Court of Appeal of Nova Scotia erred in its interpretation of the payment clause in finding that the clause did not impose a condition precedent to payment but rather stipulated a time for payment, contrary to the principles of law governing the interpretation of contracts.

**PROCEDURAL HISTORY**



APPLICATIONS FOR LEAVE  
SUBMITTED TO COURT SINCE LAST ISSUE

DEMANDES SOUMISES À LA COUR DEPUIS  
LA DERNIÈRE PARUTION

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April 7, 1994  
Supreme Court of Nova Scotia (Palmer A.C.J.)

Action dismissed

February 2, 1995  
Nova Scotia Court of Appeal

Appeal allowed

April 3, 1995  
Supreme Court of Canada

Application for leave to appeal filed

---

**The Governing Council of the University of Toronto,  
A. Byron MacDonald and R. Blair Hicken**

**v. (24647)**

**Budget Rent A Car of Edmonton Ltd. (Alta.)**

**NATURE OF THE CASE**

Commercial law - Contracts - Insurance - Negligence - Whether a consumer signing a standard form contract and paying extra consideration for insurance should be advised of fine print clauses which deny the insurance coverage in specific circumstances - Whether the party drafting exclusionary clauses can rely on them if they are not brought to the consumers' attention - Whether *Tilden Rent-A-Car v. Clendenning* (1978), 83 D.L.R. (3d) 400 (Ont. C.A.) applies.

**PROCEDURAL HISTORY**

July 23, 1992  
Court of Queen's Bench of Alberta (Veit J.)

Respondent's action dismissed

February 2, 1995  
Court of Appeal of Alberta  
(Belzil, Côté and Russell JJ.A.)

Appeal allowed

April 3, 1995  
Supreme Court of Canada

Application for leave to appeal filed

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**CORAM: L'HEUREUX-DUBÉ, SOPINKA AND McLACHLIN JJ. /  
LES JUGES L'HEUREUX-DUBÉ, SOPINKA ET McLACHLIN**

**Jozef Beckei**

**v. (24657)**

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

**NATURE OF THE CASE**

Criminal law - Evidence - Canadian Charter of Rights - Whether count 1 of the indictment should have been quashed as insufficient - Whether the proceedings should have been stayed as an infringement of ss. 7 and 11(d) of the *Charter* - Whether the trial judge was in error in refusing to qualify the Defence psychologist to give opinion evidence in the circumstances of this case - Whether the trial judge made serious errors in relation to the admissibility of evidence - Whether the trial judge made errors in her charge that could have affected the deliberations of the jury to the detriment of the Applicant.

**PROCEDURAL HISTORY**

March 17, 1994  
Court of Queen's Bench of Alberta (Hunt J.)

Conviction: 1 count of gross indecency and 1 count  
of sexual assault

February 10, 1995  
Court of Appeal of Alberta  
(Kerans, Bracco and Hetherington JJ.A.)

Appeal dismissed

April 10, 1995  
Supreme Court of Canada

Application for leave to appeal filed

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**Apotex Inc.**

**v. (24646)**

**The Wellcome Foundation Limited and Burroughs Wellcome Inc. (F.C.A.)(Ont.)**

**NATURE OF THE CASE**

Statutes - Patents - Interpretation - Subsections 41(1) and (2) of the *Patent Act*, R.S.C. 1985, c. P-4 - Whether the restrictions of ss. 41(1) of the *Patent Act* were applicable to intermediates, which are not themselves medicines - If yes, whether the patents met the requirements of ss. 41(1) of the *Patent Act* - Whether the presumption of ss. 41(2) was applicable to prove infringement of the process claims.

**PROCEDURAL HISTORY**

November 14, 1991  
Federal Court of Canada(Trial Division)  
(MacKay, J.)

Claim allowed in part: declaration that certain claims  
in Patent 014 are valid and have been infringed;  
Counterclaim dismissed

February 1, 1995  
Federal Court of Appeal  
(Hugessen, Strayer, Decary, JJ.A.)

Appeal allowed in part, Claim 14 in Patent '014 to  
be struck from Declaration, Cross-appeal dismissed

April 3, 1995  
Supreme Court of Canada

Application for leave to appeal filed

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**MOTION FOR RECONSIDERATION / REHEARING  
DEMANDE DE RÉAUDITION / NOUVELLE AUDITION**

**CORAM: CHIEF JUSTICE LAMER AND LA FOREST, GONTHIER, McLACHLIN AND IACOBUCCI JJ. LE  
JUGE EN CHEF ET LES JUGES LA FOREST, GONTHIER, McLACHLIN ET IACOBUCCI**

**The Bear Island Foundation et al.**

**v. (21435)**

**The Attorney General for the Province of  
Ontario (Ont.)**

APPLICATIONS FOR LEAVE  
SUBMITTED TO COURT SINCE LAST ISSUE

DEMANDES SOUMISES À LA COUR DEPUIS  
LA DERNIÈRE PARUTION

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**JUDGMENTS ON APPLICATIONS  
FOR LEAVE**

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

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JUNE 1, 1995 / LE 1 JUIN 1995

23698            ELAINE SCHACHTSCHNEIDER - v. - HER MAJESTY THE QUEEN (F.C.A.)

CORAM:            The Chief Justice and McLachlin and Major JJ.

The application for leave to appeal is dismissed with costs.

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

**NATURE OF THE CASE**

*Canadian Charter of Rights and Freedoms - Taxation - Income tax - Interpretation - Whether s. 118(1)(b) of the Income Tax Act discriminates against married couples on basis that couples living "common law" with children can claim equivalent to married tax credit - Right to freedom of religion - Right to equality under s. 15 of the Charter - Analogous grounds and enumerated grounds.*

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24551            SA MAJESTÉ LA REINE - c. - DENIS LAPORTE (Crim.)(Qué.)

CORAM:            Le Juge en chef et les juges Gonthier et Iacobucci

La demande de prorogation de délai et la demande d'autorisation d'appel sont accordées.

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

**NATURE DE LA CAUSE**

Droit criminel - Infractions - Défense - Preuve - Intoxication - Procès devant jury - Intimé reconnu coupable de meurtre au deuxième degré - Appel accueilli - La Cour d'appel du Québec a-t-elle statué *ultra petita*, l'intimé n'ayant jamais saisi la Cour d'appel du point de droit sur lequel la Cour d'appel s'est fondée pour casser le verdict de culpabilité et ordonner la tenue d'un nouveau procès? - La Cour d'appel a-t-elle erré en concluant que les directives du juge de première instance étaient erronées à l'égard du fardeau de preuve et en omettant de considérer l'ensemble des directives? - La Cour d'appel a-t-elle erré en omettant de statuer sur l'application des dispositions curatives de l'article 686(1)b)iii) du *Code criminel*?

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24582            SA MAJESTÉ LA REINE - c. - RÉJEAN RICHARD; LÉO J. DOIRON; J.M. DENIS LAVOIE  
(Crim.)(N.-B.)

CORAM:            Le Juge en chef et les juges Gonthier et Iacobucci

La demande d'autorisation d'appel est accordée. Le sursis d'exécution accordé le 27 février 1995 par le juge L'Heureux-Dubé est prorogé jusqu'à ce que la Cour rende jugement sur le pourvoi.

The application for leave to appeal is granted. The stay of execution granted on February 27, 1995, by L'Heureux-Dubé J. is extended until judgment of the Court is rendered on the appeal.

**NATURE DE LA CAUSE**

*Charte canadienne des droits et libertés* - Droit criminel - Procédure - Défense - Preuve - Législation - Contravention pour excès de vitesse - Défaut de paiement de la pénalité et défaut de comparaître - Application de l'article 16 de la *Loi sur la procédure applicable aux infractions provinciales*, L.N.-B. 1987, chap. P-22.1, et mod. - Déclarations de culpabilité prononcées en l'absence des intimés - Présomption d'innocence - Renonciation à un procès public et impartial - Tribunal indépendant et impartial - Article premier et alinéa 11*d*) de la *Charte* - L'arrêt de la Cour d'appel du Nouveau-Brunswick a-t-il un effet négatif sérieux sur l'administration des accusations sommaires au Nouveau-Brunswick et met-il en doute la légalité de celle d'autres provinces?

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**24594**            **ELVIN KYLE BROWN - v. - HER MAJESTY THE QUEEN** (Crim.)(C.M.A.C.)

CORAM:        The Chief Justice and Gonthier and Iacobucci 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 - Trial - Defence - Procedural law - Effect of *Charter* s. 11(*d*), (*f*) on proceedings of Court Martial - Does the provision of the *National Defence Act* that permits finding of guilt by majority infringe rights under s. 11(*d*) of the *Charter* - Correctness of Judge Advocate's instructions on duty of soldier and on defence position.

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**24596**            **HOWARD PAMAJEWON AND ROGER JONES - v. - HER MAJESTY THE QUEEN - and between - ARNOLD GARDNER, JACK PITCHENESE AND ALLAN GARDNER - v. - HER MAJESTY THE QUEEN** (Crim.)(Ont.)

CORAM:        The Chief Justice and Gonthier and Iacobucci JJ.

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

La demande de prorogation de délai et la demande d'autorisation d'appel sont accordées.

**NATURE OF THE CASE**

Criminal Law - Constitutional law - Indians - Aboriginal rights and title - Inherent right to self-government - Whether aboriginal title protects only "activity and site specific" rights which reflect particular aboriginal traditions or practices, rather than a broad right to the use and benefits of lands - Is right of self-government is restricted to matters which were the ancient aboriginal laws or customs? - Whether self-government rights respecting gaming were extinguished by provisions of the *Criminal Code* - Whether Court of Appeal should have concluded that section 207 of the *Criminal Code* is unjustifiably inconsistent with section 35 of the *Constitution Act, 1982*, because it makes some gaming lawful if licensed by the Lieutenant Governor in Council, but does not recognize an analogous authority in the First Nations to authorize charitable gaming on reserves.

**24595**            **COLIN OSBOURNE A.K.A. KIRK ALLEN - v. - HER MAJESTY THE QUEEN** (Crim.)(Ont.)

CORAM:            The Chief Justice and Gonthier and Iacobucci 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 - Criminal law - Procedure - Offences - Statutes - Interpretation - Whether "rule against multiple convictions" offended in circumstances - Whether Charter ss. 7, 11(h) infringed.*

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**24572**            **ANNA POZNEKOFF - v. - TINA ELASOFF, PAUL ELASOFF, DORIS CHERNENKOW, EDWARD HELFRICK** (B.C.)

CORAM:            The Chief Justice and Gonthier and Iacobucci 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**

*Torts - Nuisance - Procedural law - Applicant alleging that Respondents attempting to control her daughter and thwarting Applicant's attempts to visit her - Action dismissed twice for want of prosecution - Whether Supreme Court of British Columbia erred in ruling that the delay in prosecution of this case was unreasonable or unjustified.*

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**24587**            **HER MAJESTY THE QUEEN - v. - D.E.F.** (Crim.)(Alta.)

CORAM:            The Chief Justice and Gonthier and Iacobucci JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

**NATURE OF THE CASE**

*Criminal law - Evidence - Correctness, in circumstances, of admitting opinion evidence as expert evidence - Weight given to that evidence - Correctness, in circumstances, of admitting paper co-authored by witness giving opinion evidence.*

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**24576**            **BARZELEX INC. - c. - GEESTEMÜNDER BANK AG - et - BANQUE DE NOUVELLE-ÉCOSSE** (Qué.)

CORAM: Le Juge en chef et les juges L'Heureux-Dubé et Gonthier

La demande d'autorisation d'appel et la demande de sursis d'exécution sont rejetées avec dépens.

The application for leave to appeal and the application for a stay of execution are dismissed with costs.

**NATURE DE LA CAUSE**

Droit commercial - Droit international - *Code civil* - Droit de procédure - Banques et opérations bancaires - Lettres de change - Crédit international - Fraude - Lettre de crédit, qui avait pour but le financement d'acquisition d'acier, émise par la Banque de Nouvelle-Écosse à la demande de la demanderesse et pour le bénéfice de son fournisseur, M.E.C.S. International Canada, et payable à la succursale la Geestemünder Bank AG - Cession en faveur de la Geestemünder Bank AG de tous les droits de M.E.C.S. International Canada - Traite émise en vertu de la lettre de crédit tirée par le président de M.E.S.C. International Canada en faveur de la Geestemünder Bank AG - Acceptation de la traite - Allégation de fausseté des documents soumis par M.E.C.S. International Canada suivant les conditions de la lettre de crédit - Action de la demanderesse en résiliation de la lettre de crédit - Qualification de la lettre de crédit et effet de l'acceptation de la traite - La Cour d'appel a-t-elle erré dans sa réponse à la question procédurale quant à savoir si la Geestemünder Bank AG, à titre d'intervenante conservatrice, peut soulever des questions relatives à la traite qui lui sont propres? - La Cour d'appel a-t-elle erré en qualifiant la lettre de crédit de crédit réalisable par acceptation? - La Cour d'appel a-t-elle erré en concluant que la détermination de la question quant à savoir si la Geestemünder Bank AG est détentrice régulière de la traite est "peu importante" et en appliquant le droit civil en l'espèce - La Cour d'appel a-t-elle erré en statuant que la Geestemünder Bank AG avait l'intérêt requis pour présenter des arguments en faveur de la validité de la traite?

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24577 **BARZELEX INC. - c. - BANQUE DE NOUVELLE-ÉCOSSE** (Qué.)

CORAM: Le Juge en chef et les juges L'Heureux-Dubé et Gonthier

La demande d'autorisation d'appel et la demande de sursis d'exécution sont rejetées avec dépens.

The application for leave to appeal and the application for a stay of execution are dismissed with costs.

**NATURE DE LA CAUSE**

Droit commercial - Droit international - *Code civil* - Droit de procédure - Banques et opérations bancaires - Lettres de change - Crédit international - Fraude - Lettre de crédit, qui avait pour but le financement d'acquisition d'acier, émise par la Banque de Nouvelle-Écosse à la demande de la demanderesse et pour le bénéfice de son fournisseur, M.E.C.S. International Canada, et payable à la succursale la Geestemünder Bank AG - Cession en faveur de la Geestemünder Bank AG de tous les droits de M.E.C.S. International Canada - Traite émise en vertu de la lettre de crédit tirée par le président de M.E.S.C. International Canada en faveur de la Geestemünder Bank AG - Acceptation de la traite - Allégation de fausseté des documents soumis par M.E.C.S. International Canada suivant les conditions de la lettre de crédit - Action de la demanderesse en résiliation de la lettre de crédit - Qualification de la lettre de crédit et effet de l'acceptation de la traite - La Cour d'appel a-t-elle erré dans sa réponse à la question procédurale quant à savoir si la Geestemünder Bank AG, à titre d'intervenante conservatrice, peut soulever des questions relatives à la traite qui lui sont propres? - La Cour d'appel a-t-elle erré en qualifiant la lettre de crédit de crédit réalisable par acceptation? - La Cour d'appel a-t-elle erré en concluant que la détermination de la question quant à savoir si la Geestemünder Bank AG est détentrice régulière de la traite est "peu importante" et en appliquant le droit civil en l'espèce - La Cour d'appel a-t-elle erré en statuant que la Geestemünder Bank AG avait l'intérêt requis pour présenter des arguments en faveur de la validité de la traite?



**24604**                    **JOHN ROBERT VERDUN - v. - THE TORONTO-DOMINION BANK** (Ont.)

CORAM:                The Chief Justice and Gonthier and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

**NATURE OF THE CASE**

Commercial law - Civil rights - Securities - Shares - Is a beneficial owner of shares a shareholder entitled to vote at an annual meeting of shareholders of a bank - *Bank Act* S.C. 1991 c. 46, s. 143 - Did lower court err in holding that proposals submitted by the Applicant were not the type that could be advanced by a shareholder - Were proposals an abuse of the right of a shareholder to submit a proposal - Should bank have included Applicant's proposals in management proxy circular.

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**24625**                    **LE PROCUREUR GÉNÉRAL DU QUÉBEC - c. - JOCELYN GUIMOND** (Qué.)

CORAM:                Le Juge en chef et les juges L'Heureux-Dubé et Gonthier

La demande d'autorisation d'appel est accordée.

The application for leave to appeal is granted.

**NATURE DE LA CAUSE**

*Charte canadienne des droits et libertés - Code civil - Droit administratif - Procédure - Procédure civile - Législation - Dommages-intérêts - Recours collectif - Requête en autorisation d'exercer un recours collectif en vue d'intenter: 1) une action directe en nullité et en jugement déclaratoire portant que les dispositions du *Code de procédure pénale*, L.R.Q., ch. C-25.1, et de la *Loi sur les poursuites sommaires*, L.R.Q., ch. P-15, permettant d'ajouter trois jours de détention à toute peine d'incarcération imposée par suite du refus de payer une amende et les frais sont inopérantes au sens du paragraphe 52(1) de la *Charte canadienne des droits et libertés*, et 2) une action en dommages-intérêts en application de l'article 1053 du *Code civil du Bas-Canada*, du paragraphe 24(1) de la *Charte canadienne* et de l'article 49 de la *Charte des droits et libertés de la personne*, L.R.Q., ch. C-12 - Le recours collectif est-il un mécanisme procédural approprié pour contester la constitutionnalité de dispositions législatives? - Y a-t-il apparence sérieuse de contravention aux différentes chartes? Y a-t-il apparence sérieuse de droit à un recours en dommages-intérêts contre le Procureur général du Québec?*

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**24606**                    **MICHEL ROSSIGNOL - c. - CORPORATION PROFESSIONNELLE DES DENTISTES DU QUÉBEC** (Qué.)

CORAM:                Le Juge en chef et les juges L'Heureux-Dubé et Gonthier

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 - Procédure -Recours - Brefs de prérogative - Contrôle judiciaire - Compétence - Législation - Interprétation -Demandeur pratiquant l'orthodontie au Nouveau-Brunswick et désirant aussi exercer sa spécialité au Québec - Intimée refusant de lui délivrer un permis restrictif en vertu de l'art. 31 de la *Loi sur les dentistes*, L.R.Q. 1977, ch. D-3, au motif qu'il devait réussir l'examen du Bureau national d'examen dentaire du Canada - Est-ce que la requête en évocation prise à l'encontre du refus de l'intimée était le recours approprié? - L'intimée a-t-elle agi à l'intérieur de sa loi habilitante? - L'intimée peut-elle émettre un permis en vertu de l'art. 31? - L'intimée peut-elle déléguer au BNED son devoir de contrôler la compétence des professionnels? - La décision de l'intimée, qui est basée sur les résolutions 5298 et 5384, contrevient-elle aux art. 6(2)b) et 7 de la *Charte*? - Ces résolutions ont-elle l'effet d'un règlement?*

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**24458**            **BAKER ENERGY RESOURCES CORP. v. READING & BATES CONSTRUCTION CO. and READING & BATES HORIZONTAL DRILLING LTD.** (F.C.A.)

CORAM:            La Forest, Cory and Major JJ.

The application for leave to appeal is dismissed with costs.

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

**NATURE OF THE CASE**

Property law - Patents - Commercial law - Accounting - Accounting of profits on a patent infringement - What are the parameters of the doctrines of apportionment on an accounting of profits - Should the remedy of an accounting be developed consistently with related restitutionary remedies such as constructive trust and consistently with the law of other common law jurisdictions - Whether considerations of compensating the plaintiff play a role in fashioning the remedy of accounting - What is the scope of the remedy of an accounting of profits - Whether principles of causation and remoteness figure in defining scope of accounting - Whether plaintiff can recover all "direct and indirect" profits from an accounting - Whether it is the rule that indirect profits include compound interest as "secondary benefits" - Whether in the absence of evidence, such secondary benefits can be "deemed".

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**24570**            **McKENZIE ROBERT McMILLAN v. HER MAJESTY THE QUEEN** (Crim.)(Ont.)

CORAM:            La Forest, Cory and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

**NATURE OF THE CASE**

Criminal law - *Canadian Charter of Rights and Freedoms* - Offences - Statutes - Interpretation -Peace officer detaining Applicant to await arrival of an approved screening device to the roadside - Second peace officer arriving with the device 14 minutes after the demand was made - Test administered 20 minutes after the demand was made - Applicant was not advised of his right to counsel prior to providing a breath sample - Whether Court of Appeal erred in law in ruling that

the demand made to the Applicant was a demand to provide a sample "forthwith" within the meaning of s. 254(2) of the *Criminal Code* - Whether if the demand is a demand within the meaning of s. 254(2) of the *Criminal Code*, does it constitute a reasonable limit prescribed by law under s. 1 of the *Charter* on a motorist's *Charter* rights, particularly the right to counsel pursuant to s. 10(b)?

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**24360**            **HER MAJESTY THE QUEEN v. ALEXANDER NIKOLOVSKI** (Crim.)(Ont.)

CORAM:           La Forest, Cory and Major JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

**NATURE OF THE CASE**

Criminal law - Evidence - Identification evidence - Video tape of a robbery - Approach to assessing evidence - Witness in court shown videotape of robbery - Witness not able to identify robber in Court - Respondent seated alone in the prisoner's box - Trial judge relying on her own comparison between the robber on videotape and the Respondent in court to conclude that the Respondent was in fact the robber - Court of Appeal concluding that conviction unreasonable - Identification of Respondent having no other evidentiary foundation.

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**24566**            **SISCOE & SAVOIE v. THE ROYAL BANK OF CANADA, THE LAW SOCIETY OF NEW BRUNSWICK and J. DAVID HUMPHREY** (N.B.)

CORAM:           La Forest, Cory and Major JJ.

The application for leave to appeal is dismissed with costs.

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

**NATURE OF THE CASE**

Commercial law - Bankruptcy - Barristers and solicitors - Accounting - Whether the Court of Appeal erred in concluding in the absence of evidence to the contrary, a Monitor appointed under the *Companies Creditors Arrangement Act* R.S.C. 1985 c. C-36 shall be assumed to have not carried out the functions of his appointment - Whether the Court of Appeal erred in concluding that when a Monitor is appointed by virtue of a Court order, that when a question arises with regards to the manner he fulfilled his function, that his function is reviewable by an administrative tribunal.

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**24416**            **STEVEN CHRISTOPHER FUNK v. LABUS INVESTMENTS LTD.** (B.C.)

CORAM:           L'Heureux-Dubé, Sopinka and McLachlin JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

**NATURE OF THE CASE**

Property law - Mortgages - Real property - Loan - Whether debt extinguished or reduced in circumstances - Whether the Court of Appeal erred in law in holding that the Respondent should not be treated as a mortgagee for the purposes of determining its rights to enforce its judgment against the Applicant - Whether the Court of Appeal erred in law in failing to find that any obligation owed by the Applicant to the Respondent had been extinguished in law and equity and in failing to find that the Respondent must account and give credit to the Applicant for any profit it received from the mortgaged lands.

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24437            **GREENPEACE CANADA and Valerie Langer v. MACMILLAN BLOEDEL LIMITED** (B.C.)

CORAM:        L'Heureux-Dubé, Sopinka and McLachlin JJ.

The applications for leave to appeal are granted.

Les demandes d'autorisation d'appel sont accordées.

**NATURE OF THE CASE**

Administrative law - Injunctions - Jurisdiction - Discretion of court - Granting of injunctions to restrain conduct forming part of a mass public protest against government forest policy - Whether court has jurisdiction to grant interim injunction to private party whether or not conduct to be enjoined constituting criminal offence - Whether court has jurisdiction to direct injunction to named and unnamed defendants and "all persons having notice of the order" in appropriate circumstances.

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24485            **In the matter of the Bankruptcy of Joseph Phillippe Gilles Lambert of the City of Burlington, in the Regional Municipality of Halton, Province of Ontario SCOTT & PICHELLI LIMITED v. GENERAL Motors Acceptance Corporation of Canada, Limited** (Ont.)

CORAM:        L'Heureux-Dubé, Sopinka and McLachlin JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

**NATURE OF THE CASE**

Commercial law - Bankruptcy - Creditor and debtor - Securities - Personal property - Perfection of security interest - Whether the Court of Appeal erred in law in determining the scope of subsection 46(4) of the *Personal Property Security Act*, R.S.O. 1990, Chapter P.10 as it relates to debtor name errors in a financing statement.

**24480**                    **JOHN MCLEAN HAY v. HER MAJESTY THE QUEEN** (Crim.)(Ont.)

CORAM:                L'Heureux-Dubé, Sopinka and McLachlin JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

**NATURE OF THE CASE**

Criminal law - Procedural law - Appeal - Whether Applicant's estate can continue appeal against conviction following Applicant's death - Whether the Court of appeal erred in failing to apply the principles set out in *Borowski v. Canada (Attorney General)*, [1989] 1 S.C.R. 342 in determining whether or not the appeal was moot as abated.

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**24520**                    **BOMA Manufacturing Ltd. and Panabo Sales Ltd. v. CANADIAN IMPERIAL BANK OF COMMERCE** (B.C.)

CORAM:                L'Heureux-Dubé, Sopinka and McLachlin JJ.

The applications for leave to appeal and to cross-appeal are granted.

Les demandes d'autorisation d'appel et d'appel-incident sont accordées.

**NATURE OF THE CASE**

Commercial law - Bills of Exchange - Statutes - Interpretation - Company law - Banks/banking operations - Fraud - Damages - Defence - Action against a collecting bank in conversion - Can there be conversion of a cheque signed by an authorized signing officer of a company when that signing officer did not intend the payee to receive the money - Can a real person be considered a "fictitious or non-existing person" within the meaning of s. 20(5) of the *Bills of Exchange Act*, R.S.C. 1985, c. B-4? - Whether a cheque deemed to be payable to "the bearer" can be converted - Does s. 20(5) of the *Act* apply to protect a collecting bank in an action in conversion? - Was the Respondent a lawful holder of the cheques in question, entitled to treat cheques made out to existing people as if they were made out to fictitious persons? - Whether the Court of Appeal erred in not holding that the only defence to an action against a collecting bank in conversion is that the cheques had been negotiated to that bank and that "negotiation" required "delivery" and that delivery had not occurred - Whether the Court of Appeal erred in concluding that s. 165(3) of the *Bills of Exchange Act* has no application in the case at bar.

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**24622**                    **R.J.G. v. J.R.G.** (Sask.)

CORAM:                L'Heureux-Dubé, Sopinka and McLachlin JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

**NATURE OF THE CASE**

Family law - Custody - Mobility rights of custodial parent - Respondent mother awarded custody of children in Saskatchewan, but moving to Australia to study Orthodontics - Applicant father and Respondent each applying for a variation of custody - Respondent allowed to move to Australia with the child - Whether the decisions of the Courts below conflict with section 16(10) of the *Divorce Act* 1985 and section 6(5) of *The Children's Law Act*, S.S. 1990-91, c. C-8.1, both of which sections espouse maximum contact between a child and non-custodial parent and conflict with the best interests principle.

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26.5.1995

Before / Devant: THE REGISTRAR

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**Motion to extend the time in which to file the respondent's factum**

**Requête en prorogation du délai de dépôt du mémoire de l'intimé**

Her Majesty The Queen

With the consent of the parties.

v. (24027)

C.A.M. (B.C.)

**GRANTED / ACCORDÉE** Time extended to May 26, 1995.

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29.5.1995

Before / Devant: LE JUGE EN CHEF LAMER



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**Requête en déclaration que le présent appel est  
censé ne pas avoir été abandonné**

**Motion for an order that this appeal is to be  
deemed not abandoned**

Sa Majesté La Reine

Avec le consentement des parties.

c. (24210)

Jean Polo (Qué.)

**ACCORDÉE / GRANTED**

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29.5.1995

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the response**

Royal Bank of Canada

v. (24650)

Wilton, G.M., et al. (Alta.)

**Requête en prorogation du délai de signification et de dépôt de la réponse**

With the consent of the parties.

**GRANTED / ACCORDÉE** Time extended to May 23, 1995.

29.5.1995

Before / Devant: THE REGISTRAR

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

Mara Properties Ltd.

v. (24684)

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

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

With the consent of the parties.

**GRANTED / ACCORDÉE** Time extended to May 30, 1995.

30.5.1995

Before / Devant: GONTHIER J.

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**Motion to extend the time in which to apply for leave to appeal; motion for acceptance of leave application in its present form; motion for acceptance of memorandum of argument on leave to appeal of over 20 pages**

**Requête en prorogation du délai pour obtenir l'autorisation d'appel; requête en acceptation de la demande d'autorisation dans sa forme actuelle; Requête en acceptation d'un mémoire de demande d'autorisation de plus de 20 pages**

James Joseph Rodrigue

v. (24585)

Her Majesty The Queen (Yukon)

**GRANTED / ACCORDÉE**

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31.5.1995

Before / Devant: THE REGISTRAR

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**Motion to extend the time in which to file an  
intervener's factum**

BY/PAR: A.G. of Canada

IN/DANS: J.P.

v. (24171)

MacMillan Bloedel Ltd. (B.C.)

**Requête en prorogation du délai de dépôt du  
mémoire d'un intervenant**

With the consent of the parties.

**GRANTED / ACCORDÉE** Time extended to May 17, 1995.

**NOTICES OF APPEAL FILED SINCE  
LAST ISSUE**

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

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17.5.1995

**Her Majesty The Queen**

v. (24732)

**Falah Saleh Majid (Crim.)(Sask.)**

**AS OF RIGHT**

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24.5.1995

**James Allan Broderick**

v. (24733)

**Her Majesty The Queen (Crim.)(P.E.I.)**

**AS OF RIGHT**

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31.5.1995

**Manulife Bank of Canada**

v. (24499)

**John Joseph Conlin (Ont.)**

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25.5.1995

**Newfoundland Association of Public Employees**

v. (24525)

**R. in right of NF and NF Hospital and Nursing  
Home Assoc., on behalf of Green Bay Health Care  
Centre (Nfld.)**

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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 of Manitoba

IN/DANS: **L.L.A. The Sexual Assault Care Centre of the Plummer  
Memorial Public Hospital et al.**

v. (24568)

**A.B. et al. (Crim.)(Ont.)**

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**NOTICES OF DISCONTINUANCE  
FILED SINCE LAST ISSUE**

**AVIS DE DÉSISTEMENT DÉPOSÉS  
DEPUIS LA DERNIÈRE PARUTION**



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26.5.1995

**D.G.R.**

v. (24365)

**K.L.V. (B.C.)**

(motion)

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**APPEALS HEARD SINCE LAST ISSUE  
AND DISPOSITION**

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

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26.5.1995

CORAM: La Forest, L'Heureux-Dubé, Sopinka, Gonthier, Cory, Iacobucci and Major JJ.

APPEALS HEARD SINCE LAST ISSUE AND  
DISPOSITION

APPELS ENTENDUS DEPUIS LA DERNIÈRE  
PARUTION ET RÉSULTAT

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**Joseph Burke**

**v. (24071)**

**Her Majesty The Queen (Crim.)(Nfld.)**

Marvin R.V. Storrow, Q.C., Joanne R. Lysyk and  
Brian Casey, for the appellant.

Wayne Gorman, for the respondent.

**RESERVED / EN DÉLIBÉRÉ**

**Nature of the case:**

Criminal law - *Canadian Charter of Rights and Freedoms* - Procedural law - Pre-trial procedure - Evidence - Appellant charged with sexual offenses during the hearings of the Hughes Inquiry with respect to allegations of sexual misconduct by Christian Brothers at the Mount Cashel Orphanage - Whether the Court of Appeal erred in holding that the Appellant had not established that he was entitled to a stay of the proceedings - Whether the Court of Appeal erred in its application of the law regarding corroboration - Whether the Court of Appeal erred in refusing to interfere with findings as to credibility which were unreasonable in light of the evidence and for which the trial judge gave no reasons.

**Nature de la cause:**

Droit criminel - *Charte canadienne des droits et libertés* - Droit procédural - Procédure préalable au procès - Preuve - Appellant accusé d'agressions sexuelles durant les audiences de la Commission d'enquête Hughes sur les allégations de comportement sexuel abusif des Christian Brothers à l'orphelinat Mount Cashel - La Cour d'appel a-t-elle commis une erreur en concluant que l'appellant n'avait pas prouvé qu'il avait droit à un arrêt des procédures? - La Cour d'appel a-t-elle commis une erreur dans sa façon d'appliquer le droit en matière de corroboration? - La Cour d'appel a-t-elle commis une erreur en refusant de modifier les conclusions relatives à la crédibilité qui étaient déraisonnables compte tenu de la preuve et pour lesquelles le juge du procès n'a donné aucun motif?

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26.5.1995

CORAM: Sopinka, Gonthier, Cory, Iacobucci and Major JJ.

**G.S.**

Derek J. Hogan, for the appellant. (Video conference)

**v. (24337)**

**Her Majesty The Queen (Crim.)(Nfld.)**

Wayne Gorman, for the respondent.

**SOPINKA J.** (orally for the Court) -- This is an appeal as of right. We all agree with the Court of Appeal that it was an error on the part of the trial judge to comment on the failure to call as a witness the private investigator, Ross. We are, however, of the opinion that the majority of the Court of Appeal was right in concluding that no substantial wrong or miscarriage of justice was occasioned by the error. Accordingly, the appeal is dismissed.

**LE JUGE SOPINKA** (oralement au nom de la Cour) -- Il s'agit d'un pourvoi de plein droit. Nous sommes tous d'accord avec la Cour d'appel pour dire que le juge du procès a commis une erreur lorsqu'il a fait des remarques sur le fait que l'enquêteur privé, Ross, n'a pas été appelé à témoigner. Nous sommes toutefois d'avis que la Cour d'appel à la majorité a eu raison de conclure que l'erreur n'a entraîné aucun tort important ni aucune erreur judiciaire grave. En conséquence, le pourvoi est rejeté.

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29.5.1995

CORAM: Chief Justice Lamer and La Forest, L'Heureux-Dubé, Sopinka, Gonthier, Cory, Iacobucci and Major JJ. (McLachlin J. absent)

**Her Majesty The Queen**

Wayne Gorman, for the appellant.

**v. (24182)**

**A.B. (Crim.)(Nfld.)**

Jerome P. Kennedy, for the respondent.

**THE CHIEF JUSTICE** (orally for the Court) -- We do not need to hear from you Mr. Gorman. The Court is ready to hand down judgment now.

**LE JUGE EN CHEF** (oralement au nom de la Cour) -- Il ne sera pas nécessaire de vous entendre M<sup>e</sup> Gorman. La Cour est prête à rendre jugement séance tenante.

The judgment of the Court is that the appeal is allowed. The order for the new trial of the Court of Appeal is set aside and the conviction is restored. Mr. Justice Sopinka will give the reasons of the Court.

La Cour juge qu'il y a lieu d'accueillir le pourvoi. L'ordonnance de nouveau procès rendue par la Cour d'appel est annulée et la déclaration de culpabilité, rétablie. Les motifs de la Cour seront exposés par le juge Sopinka.

**SOPINKA J.** -- The complainant quite properly testified as part of the narrative that she complained to the police, to a social worker and to a doctor in 1977. The complainant was cross-examined by the respondent to the effect that she came up with the allegation after reading a book. In our view, this constituted an allegation of recent fabrication. Therefore, the evidence of the social worker and the doctor was admissible to rebut the allegation of recent fabrication. The admissibility of this evidence was limited to establish the fact that the complaints were made and not for the purpose of establishing the truth of the contents of the complaints. The trial judge expressly stated that this evidence was limited to this use.

**LE JUGE SOPINKA** -- La plaignante a témoigné tout à fait à bon droit dans le cadre de son récit qu'elle s'est plainte à la police, à un travailleur social et à un médecin en 1977. La plaignante a été contre-interrogée par l'intimé quant au fait que son allégation avait suivi la lecture d'un livre. À notre avis, cela constituait une allégation de fabrication récente. En conséquence, le témoignage du travailleur social et du médecin était admissible pour réfuter l'allégation de fabrication récente. Cette preuve n'était admissible que pour établir que les plaintes avaient été faites et non pour établir la véracité du contenu des plaintes. Le juge du procès a affirmé expressément que cette preuve ne pouvait servir qu'à cette fin.

With respect to the admission of the social worker's report, there is no basis to suggest that its contents, parts of which were not admissible, were improperly used by the trial judge. The trial judge, therefore, committed no error of law.

Quant à l'admission du rapport du travailleur social, rien ne porte à croire que le juge du procès a mal utilisé son contenu dont certaines parties n'étaient pas admissibles. Le juge du procès n'a donc commis aucune erreur de droit.

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30.5.1995

CORAM: L'Heureux-Dubé, Sopinka, Gonthier, Cory, Iacobucci and Major JJ. (McLachlin J. absent)

**Her Majesty The Queen**

Elizabeth M. Rennie, for the appellant.

**v. (24263)**

**N.M. (Crim.)(Ont.)**

Timothy E. Breen, for the respondent.

**L'HEUREUX-DUBÉ J.** (orally for the Court) --

We do not need to hear from you Mr. Breen. The Court is ready to hand down judgment now.

**LE JUGE L'HEUREUX-DUBÉ** (oralement au nom de la Cour) -- Il ne sera pas nécessaire de vous entendre M<sup>e</sup> Breen. La Cour est prête à rendre jugement séance tenante.

This is an appeal as of right. The majority of the Court would dismiss the appeal substantially for the reasons of the majority of the Court of Appeal. Madame Justice L'Heureux-Dubé would have allowed the appeal for the reasons of Abella J.A. dissenting in the Court of Appeal. Accordingly the appeal is dismissed.

Le présent pourvoi est formé de plein droit. La Cour à la majorité est d'avis de le rejeter essentiellement pour les mêmes motifs que la Cour d'appel à la majorité. Le juge L'Heureux-Dubé aurait accueilli le pourvoi pour les raisons exposées par le juge Abella, dissidente en Cour d'appel. Le pourvoi est donc rejeté.

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30.5.1995

CORAM: Sopinka, Gonthier, Cory, Iacobucci and Major JJ.

**Troy Sherwin Montour et al.**

Donald J. Stevenson, for the appellants.

**v. (24343)**

**Her Majesty The Queen (Crim.)(N.B.)**

David M. Meadows and Paula R. Taylor, for the respondent.

SOPINKA J. -- It will not be necessary to hear from you Mr. Stevenson. The Court is ready to pronounce judgement. The appeal is allowed, the judgment of the New Brunswick Court of Appeal is set aside, and the acquittals entered at trial are restored. Mr. Justice Iacobucci will give the reasons of the Court.

LE JUGE SOPINKA -- Il ne sera pas nécessaire de vous entendre M<sup>e</sup> Stevenson. La Cour est prête à rendre jugement. Le pourvoi est accueilli, le jugement de la Cour d'appel du Nouveau-Brunswick est infirmé et les acquittements inscrits au procès sont rétablis. M. le juge Iacobucci prononcera les motifs de la Cour.

IACOBUCCI J. -- Although we may differ with the trial judge in his characterizing the *Charter* breach here as a serious one, in our view, the trial judge made proper findings of fact based on the evidence before him, and committed no error in stating and applying the governing principles of law. We therefore see no reason why the New Brunswick Court of Appeal intervened to reverse the decision of the trial judge.

LE JUGE IACOBUCCI -- Bien que nous ne soyons pas du même avis que le juge du procès, qui a qualifié de grave la violation de la *Charte*, nous estimons qu'il est arrivé aux bonnes conclusions de fait selon la preuve qui lui a été présentée et qu'il n'a pas commis d'erreur en énonçant et en appliquant les principes de droit pertinents. Nous ne voyons donc pas pourquoi la Cour d'appel du Nouveau-Brunswick est intervenue pour infirmer la décision du juge du procès.

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31.5.1995

CORAM: Chief Justice Lamer and L'Heureux-Dubé, Sopinka, Gonthier, Cory, Iacobucci and Major JJ. (La Forest and McLachlin JJ. absent)



**National Parole Board et al.**

**v. (24436)**

**Ian Ross Mooring (Crim.)(B.C.)**

S. David Frankel, Q.C. and Sandra E. Weafer, for  
the appellants.

Kevin E. Gillese, for the intervener the A.G. of B.C.

Hart Schwartz and Dianne Dougall, for the  
intervener the A.G. of Ontario.

Jeffrey R. Ray and John Conroy, for the respondent.

**RESERVED / EN DÉLIBÉRÉ**

APPEALS HEARD SINCE LAST ISSUE AND  
DISPOSITION

APPELS ENTENDUS DEPUIS LA DERNIÈRE  
PARUTION ET RÉSULTAT

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**Nature of the case:**

Criminal law - *Canadian Charter of Rights and Freedoms* - Procedural law - Parole - Prerogative writs - Jurisdiction - Evidence.

**Nature de la cause:**

Droit criminel - *Charte canadienne des droits et libertés* - Droit procédural - Libération conditionnelle - Brefs de prérogative - Compétence - Preuve.

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31.5.1995

CORAM: Chief Justice Lamer and L'Heureux-Dubé, Sopinka, Gonthier, Cory, Iacobucci and Major JJ. (La Forest and McLachlin JJ. absent)

**Walter Kingsley Kirti Wijesinha**

Morris Manning and Theresa R. Simone, for the appellant.

**v. (24015)**

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

Paul Lindsay and Robert Kelly, for the respondent.

**DISMISSED reasons to follow / REJETÉE motifs à suivre**

**Nature of the case:**

Criminal law - *Canadian Charter of Rights and Freedoms* - Statutes - Interpretation - Seizure - Whether the Court of Appeal erred in holding that s. 139(2) of the *Criminal Code*, R.S.C. 1985, c. C-46, applied to investigators for the Law Society of Upper Canada - Whether the Court of Appeal erred in interpreting and applying s. 24(2) of the *Charter* - Whether the Court of Appeal erred in failing to find that the handing over of the four declarations by the Law Society to the police constituted an unreasonable seizure within s. 8 of the *Charter* and that the declarations should have been excluded pursuant to s. 24(2) of the *Charter* - Whether the Court of Appeal erred in failing to find that the four declarations were not statutory declarations given under oath and pursuant to a lawful authority.

**Nature de la cause:**

Droit criminel - *Charte canadienne des droits et libertés* - Lois - Interprétation - Saisie - La Cour d'appel a-t-elle commis une erreur en concluant que le par. 139(2) du *Code criminel*, L.R.C. (1985), ch. C-46, s'appliquait aux enquêteurs du Barreau du Haut-Canada? - La Cour d'appel a-t-elle commis une erreur en interprétant et en appliquant le par. 24(2) de la *Charte*? - La Cour d'appel a-t-elle commis une erreur en ne concluant pas que la remise des quatre déclarations par le Barreau à la police constituait une saisie abusive au sens de l'art. 8 de la *Charte* et que les déclarations auraient dû être écartées conformément au par. 24(2) de la *Charte*? - La Cour d'appel a-t-elle commis une erreur en ne concluant pas que les quatre déclarations n'étaient pas des déclarations solennelles faites légalement sous serment?

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1.6.1995

CORAM: Chief Justice Lamer and L'Heureux-Dubé, Sopinka, Gonthier, Cory, Iacobucci and Major JJ. (La Forest and McLachlin JJ. absent)

APPEALS HEARD SINCE LAST ISSUE AND  
DISPOSITION

APPELS ENTENDUS DEPUIS LA DERNIÈRE  
PARUTION ET RÉSULTAT

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**Her Majesty The Queen**

Elizabeth Bennett, Q.C., for the appellant.

**v. (24027)**

**C.A.M. (Crim.)(B.C.)**

Clayton C. Ruby, for the respondent.

**RESERVED / EN DÉLIBÉRÉ**

**Nature of the case:**

Criminal law - Sentencing - Respondent convicted on counts of assaults, assaults with a weapon, sexual assaults, incest and uttering threats, against five of his children - Whether the majority of the Court of Appeal erred in reducing the sentence from twenty-five years imprisonment to eighteen years imprisonment - Whether the majority of the Court of Appeal erred in applying as a principle of sentencing, that absent the imposition of a life sentence, the maximum sentence that may be imposed for any number of offenses is twenty years - Whether the majority of the Court of Appeal erred in finding that retribution is not a legitimate principle of sentencing - Whether the majority of the Court of Appeal erred in finding that if the Respondent would not be rehabilitated during a twenty year sentence the Respondent was obligated to bring dangerous offender proceedings against him.

**Nature de la cause:**

Droit criminel - Détermination de la peine - Intimé déclaré coupable sous des chefs d'agressions, agressions armées, agressions sexuelles, inceste et menaces contre cinq de ses enfants - La Cour d'appel à la majorité a-t-elle commis une erreur en réduisant la peine de 25 à 18 ans d'emprisonnement? - La Cour d'appel à la majorité a-t-elle commis une erreur en appliquant comme principe de détermination de la peine qu'en l'absence de l'imposition d'une peine d'emprisonnement à perpétuité, la peine maximale qui peut être imposée quel que soit le nombre d'infractions est vingt ans? - La Cour d'appel à la majorité a-t-elle commis une erreur en concluant que le châtement n'est pas un principe légitime de détermination de la peine? - La Cour d'appel à la majorité a-t-elle commis une erreur en concluant que si l'intimé ne se réhabilitait pas pendant qu'il purge une peine de vingt ans, il faudrait l'assujettir aux procédures relatives aux délinquants dangereux?

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1.6.1995

CORAM: Chief Justice Lamer and L'Heureux-Dubé, Sopinka, Gonthier, Cory, Iacobucci and Major JJ. (La Forest and McLachlin JJ. absent)

**Calhoun Edwards**

**v. (24297)**

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

Keith E. Wright and Peter B. Hambly, for the  
appellant.

Robert W. Hubbard and Joseph DeFilippis, for the  
respondent.

**RESERVED / EN DÉLIBÉRÉ**

APPEALS HEARD SINCE LAST ISSUE AND  
DISPOSITION

APPELS ENTENDUS DEPUIS LA DERNIÈRE  
PARUTION ET RÉSULTAT

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**Nature of the case:**

*Canadian Charter of Rights and Freedoms - Criminal law - Food and drugs - Seizure - Evidence - Reasonable expectation of privacy.*

**Nature de la cause:**

*Charte canadienne des droits et libertés - Droit criminel - Aliments et drogues - Saisie - Preuve - Attente raisonnable en matière de respect de la vie privée.*

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## WEEKLY AGENDA

## ORDRE DU JOUR DE LA SEMAINE

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AGENDA for the week beginning June 5, 1995.

ORDRE DU JOUR pour la semaine commençant le 5 juin 1995.

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Date of Hearing/  
Date d'audition

Case Number and Name/  
Numéro et nom de la cause

05/06/95

Motions -- Requêtes

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### NOTE:

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

**CUMULATIVE INDEX -  
APPLICATIONS FOR LEAVE TO  
APPEAL**

**INDEX CUMULATIF - REQUÊTES  
EN AUTORISATION DE POURVOI**

This index includes applications for leave to appeal standing for judgment at the beginning of 1995 and all the applications for leave to appeal filed or heard in 1995 up to now.

Cet index comprend les requêtes en autorisation de pourvoi en délibéré au début de 1995 et toutes celles produites ou entendues en 1995 jusqu'à maintenant.

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

CASE/AFFAIRE	Status/ Statut Page	Disposition/ Résultat
69971 <i>Manitoba Ltd. v. National Bank of Canada</i> (Man.), 24744, *A		988(95)
771225 <i>Ontario Inc. v. Bramco Holdings Co.</i> (Ont.), 24649, *A		651(95)
<i>A.M. v. Ryan</i> (B.C.), 24612, *B		824(95)
<i>Accurpress Manufacturing Ltd. v. Stoddard</i> (B.C.), 23882, *A		2282(93)
<i>Adler (Ralph) v. The Queen</i> (F.C.A.)(Ont.), 24341, *01 26.1.95		1770(94) 133(95)
<i>Adler (Susie) v. The Queen</i> (Ont.), 24347, *03 2.2.95		1844(94) 248(95)
<i>Affeldt v. The Queen</i> (Crim.)(Ont.), 24429, *01 2.3.95		122(95) 466(95)
<i>Allam c. Nessia Investments Ltd.</i> (Qué.), 23168, *A		2048(92)
<i>Allard c. Commission des valeurs mobilières du Québec</i> (Qué.), 24483, *02 16.3.95 455(95)		551(95)
<i>Alta Surety Co. v. Arnoldin Construction and Forms Ltd.</i> (N.S.), 24644, *B		995(95)
<i>Ambrose v. The Queen</i> (Crim.)(Ont.), 24530, *01 4.5.95		450(95) 774(95)
<i>Antoniuk v. Western Heritable Investment Co. of Canada Ltd.</i> (Alta.), 24687, *A		763(95)
<i>Apotex Inc. v. Merck &amp; Co. Inc.</i> (F.C.A.)(Ont.), 24562, *05 27.2.95		328(95) 475(95)
<i>Apotex Inc. v. Wellcome Foundation Ltd.</i> (F.C.A.)(Ont.), 24646, *B		997(95)
<i>Armada Lines Ltd. v. Chaleur Fertilizers Ltd.</i> (F.C.A.)(Ont.), 24351, *B		29(95)
<i>Armstrong v. The Queen</i> (Crim.)(Ont.), 24741, *A		988(95)
<i>Associated Respiratory Services Inc. v. Purchasing Commission</i> (B.C.), 24366, *B		25(95)
<i>Association des policiers provinciaux du Québec c. Sûreté du Québec</i> (Qué.), 24627 *B		843(95)
<i>Athey v. Leonati</i> (B.C.), 24725, *A		838(95)
<i>Atlantic Communication and Technical Workers' Union v. Maritime Telegraph and Telephone Co.</i> (N.S.), 24506, *B		534(95)
<i>Atlicic (Nfld.) Ltd. v. Hotel Buildings Ltd.</i> (Nfld.), 24313, *02 26.1.95 1682(94)		132(95)
<i>Attorney General for New Brunswick v. Morgentaler</i> (N.B.), 24623, *B		843(95)
<i>Attorney General of British Columbia v. Zutter</i> (B.C.), 24742, *A		988(95)
<i>Attorney General of Canada v. Royal Canadian Mounted Police Public Complaints Commission</i> (F.C.A.)(Ont.), 24319, *02 2.2.95		1844(94) 247(95)
<i>Augustus c. Montreal Urban Community</i> (Qué.), 24607, *B		825(95)
<i>Azzolini v. The Queen</i> (Crim.)(Alta.), 24718, *A		987(95)
<i>B.K. v. The Queen</i> (Crim.)(Sask.), 24357, *03 2.2.95		1959(94) 256(95)
<i>Bachman v. Garden</i> (Sask.), 24544, *02 30.3.95		542(95) 611(95)

<i>Baker Energy Resources Corporation v. Reading &amp; Bates Construction Co.</i> (F.C.A.)(Ont.), 24458, *02 1.6.95	333(95)	1003(95)
<i>Baroni v. The Queen</i> (N.S.), 23439, *A	478(93)	
<i>Baroud v. Minister of Citizenship and Immigration</i> (Ont.), 24610, *B	823(95)	
<i>Barrons v. The Queen in right of Canada</i> (F.C.A.)(Ont.), 24717, *A	821(95)	
<i>Barsalou v. The Queen</i> (Crim.)(Alta.), 24498, *01 27.4.95	371(95)	743(95)
<i>Barzelex Inc. c. Banque de Nouvelle-Écosse</i> (Qué.), 24577, *02 1.6.95	674(95)	1001(95)
<i>Barzelex Inc. c. Geestemünder Bank AG</i> (Qué.), 24576, *02 1.6.95	673(95)	1001(95)
<i>Basra v. Gill</i> (B.C.), 24450, *02 27.4.95	293(95)	743(95)
<i>Bate Equipment Ltd. v. Ellis-Don Ltd.</i> (Alta.), 24396, *02 18.5.95	31(95)	850(95)
<i>Battlefords and District Co-operative Ltd. v. Gibbs</i> (Sask.), 24342, *03 2.2.95	1775(94)	247(95)
<i>Beals v. The Queen</i> (Crim.)(N.S.), 24519, *01 27.4.95	577(95)	742(95)
<i>Beckei v. The Queen</i> (Crim.)(Alta.), 24657, *B	996(95)	
<i>Bennett v. Kynock</i> (N.S.), 24299, *01 2.2.95	1627(94)	245(95)
<i>Bérubé c. Procureur général du Québec</i> (Qué.), 24603, *B	770(95)	
<i>Bissonnette c. La Reine</i> (Crim.)(Qué.), 24720, *A	838(95)	
<i>Blenkin v. Regina District Health Board</i> (Sask.), 24599, *B	672(95)	
<i>Blue v. Ontario Hydro</i> (Ont.), 24393, *B	299(95)	
<i>Bluebird Footwear Inc. c. General Motors Acceptance Corporation of Canada</i> (Qué.), 24386, *A	1764(94)	
<i>Board of Education for the City of Toronto v. Ontario Secondary School Teachers' Federation, District 15 (Toronto)</i> (Ont.), 24724, *A	838(95)	
<i>Bober v. The Queen</i> (Crim.)(Ont.), 24455, *01 18.5.95	118(95)	847(95)
<i>Boma Manufacturing Ltd. v. Canadian Imperial Bank of Commerce</i> (B.C.), 24520, *03 1.6.95	546(95)	1007(95)
<i>Bossé v. Mastercraft Group Inc.</i> (Ont.), 24702, *A	819(95)	
<i>Bouchard c. La Reine</i> (Crim.)(Qué.), 24512, *01 6.4.95	449(95)	676(95)
<i>Bourbonnière c. Bureau d'expertise des assureurs Ltée</i> (Qué.), 24452, *02 2.3.95	241(95)	461(95)
<i>Bouvillons Canada Ltée c. Labbé</i> (Qué.), 24550, *02 6.4.95	547(95)	677(95)
<i>Brant County Board of Education v. Eaton</i> (Ont.), 24668, *B	910(95)	
<i>Brault c. Fontaine</i> (Qué.), 23953, *A	196(94)	
<i>British Columbia Rugby Union v. Hamstra</i> (B.C.), 24743, *A	988(95)	
<i>Brotherhood of Locomotive Engineers c. Picher</i> (Qué.), 24541, *02 11.5.95	577(95)	
	829(95)	
<i>Brousseau c. Stewart-Wolf</i> (Qué.), 24407, *02 26.1.95	19(95)	129(95)
<i>Brown v. The Queen</i> (Crim.)(Ont.), 24594, *01 1.6.95	656(95)	999(95)
<i>Burden v. Scurry-Rainbow Oil Ltd.</i> (Alta.), 24405, *02 30.3.95	18(95)	615(95)
<i>C.A.D. Ringrose Therapy Institute Ltd. v. The Queen</i> (F.C.A.)(Alta.), 24673, *A	735(95)	
<i>Camani v. The Queen</i> (Crim.)(Ont.), 24369, *01 16.2.95	9(95)	339(95)
<i>Canadian Association of Fire Bomber Pilots v. Government of Saskatchewan</i> (Sask.), 24214, *02 2.2.95	1313(94)	254(95)
<i>Canadian Broadcasting Corporation v. Attorney General for New Brunswick</i> (Crim.)(N.B.), 24305, *03 30.3.95	1847(94)	613(95)
<i>Canadian Broadcasting Corporation v. Attorney General of the province of Saskatchewan</i> (Sask.), 23738, *02 12.1.95	1797(93)	34(95)
<i>Canadian Broadcasting Corporation v. The Queen</i> (Crim.)(Ont.), 24579, *01 4.5.95	576(95)	773(95)
<i>Canadian National Railway Co. v. The Queen</i> (F.C.A.)(Ont.), 24340, *02 26.1.95	1771(94)	
	133(95)	
<i>Canadian Pacific Ltd. v. Brotherhood of Maintenance of Way Employees</i>		

<i>Canadian Pacific System Federation</i> (B.C.), 24317, *B	1683(94)	
<i>Canadian Pacific Ltd. v. The Queen</i> (F.C.A.)(B.C.), 24315, *02 26.1.95	1771(94)	133(95)
<i>Canderel Ltd. v. The Queen</i> (F.C.A.)(Ont.), 24663, *A	652(95)	
<i>Casselman v. Serban</i> (B.C.), 24613, *B	825(95)	
<i>Centre communautaire juridique de l'Estrie c. Ville de Sherbrooke</i> (Qué.), 24425, *03 2.3.95	243(95)	460(95)
<i>Chaba v. The Queen</i> (Crim.)(Alta.), 24380, *01 19.1.95	1849(94)	42(95)
<i>Chabotar c. La Reine</i> (Crim.)(Qué.), 24563, *01 18.5.95	581(95)	855(95)
<i>Chalkley v. Chalkley</i> (Man.), 24515, *01 L'Heureux-Dubé J. dissenting 30.3.95 501(95)	618(95)	
<i>Chan v. Cheung</i> (Alta.), 24527, *B	533(95)	
<i>Charlebois (Gilles) v. Amalgamated Transit Union Local 279</i> (F.C.A.)(Ont.), 24219, *02 12.1.95	1323(94)	37(95)
<i>Charlebois (Sylvain) c. Collège militaire royal de Saint-Jean</i> (Qué.), 24656, *A	651(95)	
<i>Chavali v. Ng</i> (Ont.), 24461, *02 16.3.95	294(95)	552(95)
<i>Cheticamp Fish Co-Operative Ltd. v. The Queen in right of Canada</i> (N.S.), 24700, *A	818(95)	
<i>Chetty v. Burlingham Associates Inc.</i> (Sask.), 24590, *B	666(95)	
<i>Chouinard c. Procureur général du Canada</i> (Qué.), 24664, *A	652(95)	
<i>City of Dartmouth v. Pay Equity Commission</i> (N.S.), 24447, *02 30.3.95 234(95)	612(95)	
<i>Clark v. The Queen</i> (Crim.)(Ont.), 24635, *B	989(95)	
<i>Clark v. The Queen</i> (F.C.A.)(Ont.), 24676, *B	993(95)	
<i>Clarke v. The Queen</i> (Crim.)(Ont.), 24583, *B	581(95)	
<i>Cloutier c. Ferland</i> (Qué.), 24349, *02 26.1.95	1846(94)	131(95)
<i>Codina v. The Queen</i> (Crim.)(Ont.), 24597, *B	672(95)	
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<i>Burlingham v. The Queen</i> (Crim.)(B.C.), 23966, *03 L'Heureux-Dubé J. dissenting 18.5.95		1758(94)	866(95)
<i>Canadian Broadcasting Corporation v. Canada Labour Relations Board</i> (Ont.), 23142, *02 McLachlin J. dissenting 27.1.95		461(94)	150(95)
<i>Canadian Pacific Ltd. v. The Queen in right of Ontario</i> (Ont.), 23721, fails on the first ground; the first constitutional question is answered in the affirmative. The second and third constitutional questions are in reserve		146(95)	
<i>Chan v. Minister of Employment and Immigration</i> (F.C.A.)(B.C.), 23813		267(95)	
<i>Chaplin v. The Queen</i> (Crim.)(Alta.), 23865, *01 6.10.94 (reasons delivered 23.2.95)		1606(94)	403(95)
<i>Chen v. Minister of Employment and Immigration</i> (F.C.A.)(Ont.), 23984, *03 23.2.95		314(95)	402(95)
<i>Church of Scientology of Toronto v. Hill</i> (Ont.), 24216		396(95)	
<i>Cleghorn v. The Queen</i> (Crim.)(Ont.), 24248		750(95)	
<i>Compagnie Minière Québec Cartier c. Métallurgistes Unis d'Amérique, Local 6869</i> (Qué.), 23960		833(95)	
<i>Consolidated Enfield Corporation v. Blair</i> (Ont.), 23887, *02 21.3.95		600(95)	600(95)
<i>Corporation of the City of Stratford v. Large</i> (Ont.), 24004		476(95)	
<i>Crawford v. The Queen</i> (Crim.)(Ont.), 23711, *03 30.3.95		1756(94)	624(95)
<i>Crosby v. The Queen</i> (Crim.)(N.S.), 24116, *03 24.4.95		750(95)	750(95)
<i>Dow Corning Corporation v. Hollis</i> (B.C.), 23776		270(95)	
<i>Dunn v. The Queen</i> (Crim.)(Ont.), 24041, *03 L'Heureux-Dubé J. dissenting 27.1.95		1700(94)	150(95)
<i>Durish v. White Resource Management Ltd.</i> (Alta.), 23483, *04 23.2.95		1533(94)	402(95)
<i>Edwards v. The Queen</i> (Crim.)(Ont.), 24297		1019(95)	

<i>Egan v. The Queen</i> (F.C.A.)(Ont.), 23636, *01 L'Heureux-Dubé, Cory, McLachlin and Iacobucci JJ. dissenting 25.5.95	1701(94)	924(95)
<i>Evans v. The Queen</i> (Crim.)(B.C.), 24359	783(95)	
<i>F.J.U. v. The Queen</i> (Crim.)(Ont.), 24159	751(95)	
<i>Fitzpatrick v. The Queen</i> (Crim.)(B.C.), 24254	601(95)	
<i>Friesen v. The Queen</i> (F.C.A.)(B.C.), 23922	479(95)	
<i>G.S. v. The Queen</i> (Crim.)(Nfld.), 24337, *01 26.5.95	1014(95)	1014(95)
<i>Goyet c. Beaulieu</i> (Qué.), 23629	479(95)	
<i>Goddard v. The Queen</i> (Crim.)(Alta.), 24200, *03 20.3.95	599(95)	599(95)
<i>Halcrow v. The Queen</i> (Crim.)(B.C.), 23542, *01 27.1.95	266(95)	266(95)
<i>Harrer v. The Queen</i> (Crim.)(B.C.), 24141	512(95)	
<i>Hawrish v. The Queen</i> (Crim.)(Sask.), 23898, *01 21.3.95	600(95)	600(95)
<i>Hibbert v. The Queen</i> (Crim.)(Ont.), 23815	266(95)	
<i>Imperial Tobacco Ltd. c. Attorney General of Canada</i> (Qué.), 23490	1871(94)	
<i>Jobin v. The Queen</i> (Crim.)(Alta.), 23190, *01 13.4.95	368(94)	690(95)
<i>Jorgensen v. The Queen</i> (Crim.)(Ont.), 23787	398(95)	
<i>Khela c. La Reine</i> (Crim.)(Qué.), 24265	922(95)	
<i>Kiyawasew v. The Queen</i> (Crim.)(Alta.), 23603	782(95)	
<i>Laporte v. The Queen</i> (Crim.)(Man.), 24140, *01 27.1.95	266(95)	266(95)
<i>Lord v. The Queen</i> (Crim.)(B.C.), 23943, *01 21.2.95	397(95)	397(95)
<i>MacGillivray v. The Queen</i> (Crim.)(N.S.), 23933, *01 23.2.95	400(95)	624(95)
<i>Maksymec v. Botiuk</i> (Ont.), 23519	1920(94)	
<i>Manning v. Hill</i> (Ont.), 24216	396(95)	
<i>Matsqui Indian Band v. Canadian Pacific Ltd.</i> (F.C.A.)(Ont.), 23643, *02 L'Heureux-Dubé, Sopinka, Gonthier and Iacobucci JJ. dissenting 26.1.95	1586(94)	149(95)
<i>Mayfield Investments Ltd. v. Stewart</i> (Alta.), 23739, *04 26.1.95	1588(94)	150(95)
<i>Miron v. Trudel</i> (Ont.), 22744, *04 Lamer C.J. and La Forest, Gonthier and Major JJ. dissenting 25.5.95	967(94)	924(95)
<i>Montour v. The Queen</i> (Crim.)(N.B.), 24343, *03 30.5.95	1016(95)	1016(95)
<i>Moore v. The Queen</i> (Crim.)(B.C.), 23810, *01 24.2.95	476(95)	476(95)
<i>National Parole Board v. Mooring</i> (Crim.)(B.C.), 24436	1017(95)	
<i>Neuzen v. Korn</i> (B.C.), 23773	271(95)	
<i>O'Connor v. The Queen</i> (Crim.)(B.C.), 24114	269(95)	
<i>O'Leary v. The Queen</i> (Ont.), 23928	1917(94)	
<i>Ominayak v. The Queen</i> (Crim.)(Alta.), 23603	782(95)	
<i>Piluke v. The Queen</i> (Crim.)(B.C.), 24070, *01 31.1.95	268(95)	268(95)
<i>Primeau v. The Queen</i> (Crim.)(Sask.), 23613, *01 13.4.95	368(94)	692(95)
<i>R. v. A.B.</i> (Crim.)(Nfld.), 24182, *03 29.5.95	1015(95)	1015(95)
<i>R. v. Ball</i> (Crim.)(B.C.), 24157, *01 22.2.95	399(95)	399(95)
<i>R. v. Barrett</i> (Crim.)(Ont.), 23749, *03 22.2.95	399(95)	399(95)
<i>R. v. Bernshaw</i> (Crim.)(B.C.), 23748, *03 7.10.94	1585(94)	1585(94) & 152(95)
<i>R. v. C.A.M.</i> (Crim.)(B.C.), 24027	1018(95)	
<i>R. v. Crown Forest Industries Ltd.</i> (F.C.A.)(Ont.), 23940	480(95)	
<i>R. v. Lepage</i> (Crim.)(Ont.), 23974, *03 Cory and Major JJ. dissenting 23.2.95	1791(94)	402(95)
<i>R. v. Livermore</i> (Crim.)(Ont.), 24143	601(95)	
<i>R. v. McIntosh</i> (Crim.)(Ont.), 23843, *01 La Forest, L'Heureux-Dubé, Gonthier and McLachlin JJ. dissenting 23.2.95	1869(94)	402(95)
<i>R. v. N.M.</i> (Crim.)(Ont.), 24263, *01 30.5.95	1016(95)	1016(95)
<i>R. v. Park</i> (Crim.)(Alta.), 23876	1919(94)	
<i>R. v. Pontes</i> (Crim.)(B.C.), 24020	477(95)	
<i>R. v. Tanner</i> (Ont.), 24262, *03 18.5.95	751(95)	866(95)
<i>R. c. Thibaudeau</i> (C.A.F.)(Qué.), 24154, *04 L'Heureux-Dubé and McLachlin JJ. dissenting 25.5.95	1531(94)	925(95)

<i>RJR -- MacDonald Inc. c. Attorney General of Canada</i> (Qué.), 23460	1871(94)	
<i>R.J.S. v. The Queen</i> (Crim.)(Ont.), 23581, *01 2.2.95	368(94)	272(95)
<i>Richard B. v. Children's Aid Society of Metropolitan Toronto</i> (Ont.), 23298, *01 17.3.94	464(94)	595(94) & 151(95)
<i>Royal Bank of Canada v. Mitsui &amp; Co. (Canada) Ltd.</i> (N.S.), 23914, *04 4.5.95	478(95)	784(95)
<i>Ruffo c. Conseil de la magistrature</i> (Qué.), 23127	602(95)	
<i>Shaw Cable Systems B.C. v. B.C. Telephone Co.</i> (F.C.A.)(B.C.), 23717	145(95)	
<i>Silveira v. The Queen</i> (Crim.)(Ont.), 24013, *01 La Forest J. dissenting 18.5.95	1758(94)	866(95)
<i>Siska Indian Band v. Canadian Pacific Ltd.</i> (F.C.A.)(Ont.), 23643	1586(94)	
<i>Simpson v. The Queen</i> (Crim.)(Nfld.), 24099, *03 3.2.95	314(95)	314(95)
<i>St. Pierre v. The Queen</i> (Crim.)(Ont.), 23518, *03 La Forest, L'Heureux-Dubé, Gonthier and McLachlin JJ. dissenting 2.3.95	1915(94)	481(95)
<i>Stinchcombe v. The Queen</i> (Crim.)(Alta.), 24117, *01 23.2.95	401(95)	401(95)
<i>Telecommunications Workers Union v. Canadian Radio-Television and Telecommunications Commission</i> (F.C.A.)(Ont.), 23778	145(95)	
<i>Tempelaar v. The Queen</i> (Crim.)(Ont.), 23909, *01 3.3.95	512(95)	512(95)
<i>United Steelworkers of America, Local 9332 v. Richard</i> (N.S.), 23621, *03 4.5.95	965(94)	784(95)
<i>Vout v. Hay</i> (Ont.), 24009	148(95)	
<i>W.R.D. v. The Queen</i> (Crim.)(Man.), 24120, *01 28.2.95	477(95)	477(95)
<i>Walker v. Government of Prince Edward Island</i> (P.E.I.), 23861, *02 23.5.95	921(95)	921(95)
<i>Weber v. Ontario Hydro</i> (Ont.), 23401	1918(94)	
<i>Wijesinha v. The Queen</i> (Crim.)(Ont.), 24015, *01 31.5.95	1018(95)	1018(95)
<i>Winnipeg Condominium Corporation No. 36 v. Bird Construction Co.</i> (Man.), 23624, *03 26.1.95	1587(94)	149(95)
<i>Workers' Compensation Board v. Husky Oil Operations Ltd.</i> (Sask.) 23936	147(95)	



**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 : June 5, 1995**

Service : May 15, 1995  
 Filing : May 22, 1995  
 Respondent : May 29, 1995

**Motion day : October 2, 1995**

Service : September 11, 1995  
 Filing : September 18, 1995  
 Respondent : September 25, 1995

**Motion day : November 6, 1995**

Service : October 16, 1995  
 Filing : October 23, 1995  
 Respondent : October 30, 1995

**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 : 5 juin 1995**

Signification : 15 mai 1995  
 Dépôt : 22 mai 1995  
 Intimé : 29 mai 1995

**Audience du : 2 octobre 1995**

Signification : 11 septembre 1995  
 Dépôt : 18 septembre 1995  
 Intimé : 25 septembre 1995

**Audience du : 6 novembre 1995**

Signification : 16 octobre 1995  
 Dépôt : 23 octobre 1995  
 Intimé : 30 octobre 1995

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**DEADLINES: APPEALS**

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**DÉLAIS: APPELS**

The next session of the Supreme Court of Canada commences on October 2, 1995.

La prochaine session de la Cour suprême du Canada débute le 2 octobre 1995.

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

Conformément à la *Loi sur la Cour suprême* et aux *Règles*, il faut se conformer aux exigences suivantes avant qu'un appel puisse être inscrit pour audition:

**Case on appeal** must be filed within three months of the filing of the notice of appeal.

**Le dossier d'appel** doit être déposé dans les trois mois du dépôt de l'avis d'appel.

**Appellant's factum** must be filed within five months of the filing of the notice of appeal.

**Le mémoire de l'appelant** doit être déposé dans les cinq mois du dépôt de l'avis d'appel.

**Respondent's factum** must be filed within eight weeks of the date of service of the appellant's factum.

**Le mémoire de l'intimé** doit être déposé dans les huit semaines suivant la signification de celui de l'appelant.

**Intervener's factum** must be filed within two weeks of the date of service of the respondent's factum.

**Le mémoire de l'intervenant** doit être déposé dans les deux semaines suivant la signification de celui de l'intimé.

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

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

The Registrar shall enter on a list all appeals inscribed for hearing at the October 1995 Session on August 8, 1995.

Le 8 août 1995, le registraire met au rôle de la session d'octobre 1995 tous les appels inscrits pour audition.