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**APPLICATIONS FOR LEAVE TO
APPEAL FILED**

Ontex Resources Ltd.

Bryan Finlay, Q.C.
Weir & Foulds

v. (23727)

Metalore Resources Ltd. et al. (Ont.)

B. Tait, Q.C.
McCarthy, Tétrault

FILING DATE 30.9.1993

Stephan Mills

Bruce J. Daley
Daley, Byers & Phillips

v. (23728)

Her Majesty The Queen (Ont.)

A.G. of Ontario

FILING DATE 27.9.1993

Brian James McGovern

Walsh, Micay and Co.

v. (23733)

Her Majesty The Queen (Man.)

Dept. of Justice

FILING DATE 23.9.1993

Eric Ralph Biddle

Bruce Duncan
Duncan, Fava, Schermbrucker

v. (23734)

Her Majesty The Queen (Ont.)

A.G. of Ontario

FILING DATE 30.9.1993

**DEMANDES D'AUTORISATION
D'APPEL PRODUITES**

The Canadian Broadcasting Corporation

Robertson Stromberg

v. (23738)

**Attorney General of the Province of
Saskatchewan (Sask.)**

Graeme G. Mitchell
Dep. A.G.

FILING DATE 15.9.1993

**Her Majesty The Queen in right of the province
of New Brunswick, as represented by the
Minister of Finance**

Cedric L. Haines
A.G. of N.B.

v. (23740)

Coopers & Lybrand Ltd. (N.B.)

R. Gary Faloon
Palmer, O'Connell, Leger, Roderick, Glennie

FILING DATE 6.10.1993

Darryl Ghostkeeper

Richard C. Gibbs

v. (23741)

Her Majesty The Queen (B.C.)

Elizabeth A. Bennett
Criminal Appeals and Special Prosecutions

FILING DATE 6.10.1993

Newfoundland Processing Ltd.
Stewart McKelvey Stirling Scales

v. (23742)

**The United Association of Journeymen and
Apprentices of the plumbing and pipefitting
industry of the United States and Canada, Local
740 et al. (Nfld.)**

Edward J. Shortall

FILING DATE 30.9.1993

Thornhurst Corp et al.

Anthony F. Steele
Beccarea, Camman & Steele

v. (23743)

Harvey Hubbell Canada Inc. (Ont.)

W.D.R. Beamish
Borden & Elliott

FILING DATE 6.10.1993

Gaelle Le Bail

François Luc Coallier
Ruel Coallier Gagnon & Assoc.

c. (23744)

Michel Plamondon (Qué.)

Louise Moreau
Fontaine, Gameau & Assoc.

DATE DE PRODUCTION 1.10.1993

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

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

OCTOBER 13, 1993 / LE 13 OCTOBRE 1993

**CORAM: THE CHIEF JUSTICE LAMER AND McLACHLIN AND MAJOR JJ. /
LE JUGE EN CHEF LAMER ET LES JUGES McLACHLIN ET MAJOR**

Kanwaljit Singh Sandhu

v. (23450)

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

NATURE OF THE CASE

Criminal law - *Canadian Charter of Rights and Freedoms* - Procedural law - Evidence - Seizure - Narcotics - Bag searched at the airport containing narcotics delivered at the Applicant's apartment where police forced entry to arrest the Applicant - Whether the Court of Appeal erred in ruling that the Applicant did not have standing to rely on ss. 8 and 24(2) of the *Charter* with respect to the search and seizure of the contents of the bag at the airport and whether the Court erred in ruling that the admission of that evidence did not bring the administration of justice into disrepute pursuant to s. 24(2) of the *Charter* - Whether a judge of the Court of Appeal erred in ruling that the evidence obtained in the search of the apartment did not violate s. 8 of the *Charter* and whether the Court of Appeal erred in ruling that, even if there was a violation, the admission of that evidence did not bring the administration of justice into disrepute.

PROCEDURAL HISTORY

April 29, 1992 Supreme Court of British Columbia (Wong J.)	Conviction: Possession of a narcotic for the purpose of trafficking
June 10, 1993 Court of Appeal for British Columbia (Toy, Southin and Prowse JJ.A.)	Appeal against conviction dismissed
September 16, 1993 Supreme Court of Canada	Application for leave to appeal filed

Kenneth Ray Howard also known as Lavern Vogel

v. (23703)

**Her Majesty the Queen in Right of Canada;
the United States of America (State of Missouri); the Attorney General of Canada and the Superintendent of the
Toronto (Don) Jail (Crim.)(Ont.)**

NATURE OF THE CASE

Criminal law - Extradition - Procedural law - Evidence - Applicant charged with second degree murder, burglary and armed criminal action in the United States - Application for extradition of Applicant allowed - Application for a writ of *habeas corpus* with *certiorari* in aid dismissed - Whether there was evidence that the Applicant and not his accomplice had

a gun and shot the victim - Whether there was evidence disclosing an intention to kill - Whether the conduct which discloses manslaughter on a request for extradition on a charge of murder meets the requirements of double criminality.

PROCEDURAL HISTORY

April 16, 1992 Ontario Court of Justice (General Division) (Hoilett J.)	Application for extradition allowed
August 31, 1992 Ontario Court of Justice (General Division) (Campbell J.)	Application for a writ of <i>habeas corpus</i> with <i>certiorari</i> in aid dismissed
June 29, 1993 Court of Appeal for Ontario (Morden A.C.J.O., Grange and Labrosse J.J.A.)	Appeal dismissed
September 9, 1993 Supreme Court of Canada	Application for leave to appeal filed

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

The Canadian Broadcasting Corporation

v. (23738)

Attorney General of the Province of Saskatchewan (Crim.)(Sask.)

NATURE OF THE CASE

Criminal law - *Canadian Charter of Rights and Freedoms* - Procedural law - Young offenders - Evidence - Appeals - Order prohibiting the publication of evidence until all related trials completed granted by Provincial Youth Court of Saskatchewan - Applicant's appeal dismissed - Applicant commencing civil action against the Respondent and applying for order setting aside, or declaring null and void, order of Provincial Court - Whether an order restricting publication of evidence at trial is a legislative or government action within s. 32 of the *Charter* - Whether a member of the media affected by an order restricting publication of evidence at trial has a right to apply to a court of competent jurisdiction for relief under s. 24 of the *Charter* - Whether the media has a right under s. 2(b) of the *Charter* to publish the evidence in court proceedings - Onus on a party propounding a restriction on the right to publish evidence in court proceedings to justify such restriction - Whether the order of the Provincial Court judge is a reasonable restriction of the Applicant's s. 2(b) *Charter* rights.

PROCEDURAL HISTORY

March 3, 1993 Provincial Youth Court of Saskatchewan (Lavoie P.C.J.)	Order prohibiting the publication of evidence until all related trials completed granted
May 19, 1993 Court of Queen's Bench of Saskatchewan (Matheson J.)	Applicant's application dismissed

September 17, 1993
Supreme Court of Canada

Application for leave to appeal filed

**Ministry of Municipal Affairs and
The Township of Innisfil**

v. (23705)

Moonshot Developments Limited (Ont.)

NATURE OF THE CASE

Municipal law - Taxation - Municipal corporations - Statutes - Interpretation - Redemption of land - Payment of proceeds out of tax sale - Application and interpretation of transitional provisions in the *Municipal Tax Sales Act, 1984*, S.O. 1984, c. 48. - Validity and effect of the registration of a notice of forfeiture under the *Municipal Tax Sales Act, 1984* - Whether the Court of Appeal erred as a matter of law in finding that a person has a present right to apply to the Ministry of Municipal Affairs pursuant to s. 46 of the *Municipal Affairs Act*, R.S.O. 1980, c. 303 - Whether the Court of Appeal erred as a matter of law in finding that portions of the *Municipal Affairs Act* survive indefinitely notwithstanding the provisions in the *Municipal Tax Sales Act* which have as their purpose the repeal of those sections - Whether the Court of Appeal erred as a matter of law in finding that nothing in the transitional provisions of the *Municipal Tax Sales Act* specifically removes the right to apply to the Ministry under s. 46 of the *Municipal Affairs Act* - Whether the Court of Appeal erred as a matter of law in interpreting subsections 23(2), (3), (4), and (5) of the *Municipal Tax Sales Act* to be devoid of meaning.

PROCEDURAL HISTORY

May 22, 1990
Supreme Court of Ontario
(Ewaschuk J.)

Application for declaration entitling the Respondent to proceeds of sale after payment of tax arrears or relief pursuant to s. 46 of the *Municipal Affairs Act*, R.S.O. 1980, c. 303 dismissed

May 10, 1993
Court of Appeal for Ontario
(Lacourcière, McKinlay and Carthy JJ.A.)

Appeal allowed: Respondent entitled to declaration that it has the right to apply to the Applicant pursuant to s. 46 of the *Municipal Affairs Act*.

September 9, 1993
Supreme Court of Canada

Application for leave to appeal filed

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

Ernest Roy French

v. (23595)

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

NATURE OF THE CASE

Criminal law - Procedural law - Evidence - Whether the Court of Appeal erred in holding that the evidence of prior acts of misconduct of the Applicant were properly admitted by the trial judge as similar fact evidence where there was no *voir dire* into whether the evidence was admissible as similar act evidence.

PROCEDURAL HISTORY

February 21, 1992 Ontario Court (General Division) (Hamilton J.)	Conviction: one count of assault; one count of assault with a weapon; one count of aggravated assault and wounding
May 10, 1993 Court of Appeal for Ontario (Houlden, McKinlay and Doherty JJ.A.)	Appeal against conviction allowed in part
September 9, 1993 Supreme Court of Canada	Application for leave to appeal filed

Franck Côté, Peter Decontie *et als.*

c. (23707)

Sa Majesté la Reine (Qué.)

NATURE DE LA CAUSE

Indiens - Droit constitutionnel - Législation - Interprétation - Pêcheries - Demandeurs accusés d'avoir pêché sur le territoire de la Z.E.C. Bras-Coupé-Désert, sans avoir payé le tarif d'accès requis par l'art. 5 du *Règlement sur les zones d'exploitation contrôlée* - Demandeur Côté accusé d'avoir pêché sans permis sur le territoire de la Z.E.C., en contravention à l'art. 4(1) du *Règlement de pêche du Québec* - Les Algonquins de la rivière Désert ont-ils des droits ancestraux existants, d'accès et de pêche, sur le territoire de la Z.E.C. Bras-Coupé-Désert? - La *Proclamation royale* du 7 octobre 1763 confirme-t-elle la protection de l'exercice des droits d'accès et de pêche des Algonquins sur leurs terres ancestrales? - Les droits d'accès des Algonquins, issus du Traité de Swegatchy, sont-ils protégés de l'application du *Règlement sur les zones d'exploitation contrôlée*, en vertu de l'art. 88 de la *Loi sur les Indiens*? - Les Algonquins bénéficient-ils de la protection de l'art. 35(1) de la *Loi constitutionnelle de 1982*, quant à leur libre accès à la Z.E.C. et à leur droit d'y pêcher, qui rendrait inopérants quant à eux les règlements créant les infractions reprochées?

HISTORIQUE PROCÉDURAL

Le 21 avril 1988 Cour des sessions de la paix (Barrière J.)	Demandeurs déclarés coupables
Le 19 mai 1989 Cour supérieure du Québec (Frenette J.C.S.)	Appels rejetés
Le 17 mai 1993 Cour d'Appel du Québec (Tyndale, Baudouin et Delisle [dissident] JJ.C.A.)	Appels rejetés
Le 13 septembre 1993	Demande d'autorisation d'appel déposée

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST ISSUE

REQUÊTES SOUMISES À LA COUR DEPUIS
LA DERNIÈRE PARUTION

Cour Suprême du Canada

Le 1 octobre 1993
Cour Suprême du Canada

Demande d'autorisation d'appel incident déposée

**JUDGMENTS ON APPLICATIONS
FOR LEAVE**

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

OCTOBER 14, 1993 / LE 14 OCTOBRE 1993

23006 Hudson's Bay Company - v. - Howard I. Weston in his capacity as director of investigations and research appointed under *The Competition Act*, James Smith and Her Majesty the Queen in Right of Canada (Ont.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Constitutional law - Criminal law - Commercial law - Division of powers - Appeal - Statutes - Interpretation - Seizure - Search warrants issued pursuant to s. 15 of the *Competition Act*, R.S.C. 1985, c. C-34 - Whether the Court of Appeal has jurisdiction to hear an appeal from a review of the issuance of a search warrant issued pursuant to ss. 15 and 52 of the *Competition Act*, R.S.C. 1985, c. C-34, - Interpretation of *Knox Contracting Ltd. v. Canada*, [1990] 2 S.C.R. 338, *General Motors of Canada Ltd. v. City National Leasing*, [1989] 1 S.C.R. 641, and *R. v. Wholesale Travel Group Inc.*, [1991] 3 S.C.R. 154 - Whether the *Competition Act* is supportable by both ss. 91(2) and 91(27) of the *Constitution Act, 1867* and is not truly criminal in nature - Whether s. 674 of the *Criminal Code*, R.S.C. 1985, c. C-46 precludes appeals in relation to search warrants issued in respect of hybrid offences where either no charge has been laid or no election made by the Crown in respect of the search warrant to proceed by indictment.

23454 Tonino Stellato - v. - Her Majesty the Queen (Crim.) (Ont.)

CORAM: The Chief Justice and McLachlin 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 - Offenses - Standard of proof - Ontario Court, Provincial Division, convicting Applicant of impaired driving pursuant to s. 253(a) of the *Criminal Code*, R.S.C. 1985, c. C-46 - Ontario Court, General Division, dismissing Applicant's appeal - Court of Appeal for Ontario dismissing appeal - Standard of proof required for a conviction on a charge of impaired operation; specifically, must the Respondent prove that an accused's conduct demonstrates a marked departure from that of a normal person in order to prove the offence of operate a motor vehicle while one's ability is impaired by alcohol or drug.

23421 Frank Garratt Palmer - v. - Robert St. George Gray, Wayne George Goodwill Derek Thomas McFadden, Donald Gary McKay and Terrance Frederik Watts (Crim.)(B.C.)

CORAM: The Chief Justice and McLachlin 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 - Procedural law - Evidence - Application under s. 37 of the *Canada Evidence Act*, R.S.C. 1985, c. C-5 - Did the Court of Appeal err in failing to hold that legal advice sought and obtained by the Royal Canadian Mounted Police from the Department of Justice is entitled to the protection afforded by the rules relating to solicitor-client privilege - Did the Court of Appeal err in failing to hold that, in the present circumstances of this case, the public interest in protecting confidential communications between the Royal Canadian Mounted Police and the Department of Justice outweighs the interests of the Respondents?

23474 Van Hung Nguyen - v. - The Minister of Employment and Immigration (F.C.A.)

CORAM: The Chief Justice, McLachlin and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Immigration - Procedural law - Judicial review - Applicant summoned to inquiry under s. 27(3) of the *Immigration Act*, R.S.C. 1985, c. I-2, for being a person described in ss. 27(1)(d)(i) and (ii) of the *Act* - Applicant making a refugee claim at inquiry - Respondent issuing a public danger certificate against the Applicant pursuant to s. 46.01(1)(e)(ii) of the *Immigration Act* - Immigration and Refugee Board finding that the Applicant was not eligible to make a refugee claim and issuing a deportation order - Federal Court of Appeal dismissing Applicant's application to quash the decision and set aside the deportation order - Whether a person considered a danger to the public can make a refugee claim.

23500 Comfort Duodo Boakye - v. - The Minister of Employment and Immigration (F.C.A.)

CORAM: The Chief Justice and McLachlin and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Administrative law - Immigration - Judicial review - Evidence - Convention refugee status - Solicitor-client privilege - Whether the Federal Court of Appeal erred in law by failing to find that solicitor-client privilege was violated by admission of the Applicant's former solicitor's testimony at her credible basis hearing under the *Immigration Act* - Whether the Federal Court of Appeal erred in law by finding that a claim to solicitor-client privilege cannot be raised on judicial review where there has been no objection at the forum of first instance - Whether the Federal Court of Appeal erred in law by suggesting that administrative tribunals composed of lay persons are not competent to enforce a claim of evidentiary privilege - Whether the Federal Court of Appeal erred in law by failing to recognize that the admission of the former testimony of the Applicant's former solicitor constituted a breach of natural justice.

23534 Pacific Coast Energy Corporation, Westcoast Energy Inc., Intec Engineering Inc. - v. - Can-Dive Services Ltd. and Laurentian Pacific Insurance Company and Morrison-Knudsen Company, Inc. and Northern Construction Company Ltd. (B.C.)

CORAM: The Chief Justice and McLachlin and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Torts - Negligence - Duty of care - Commercial law - Applicants contractors for project to build undersea pipeline - Respondents alleging reliance on Applicants' drafts when preparing bid in response to tender - Respondent alleging that it experienced delays and significantly increased costs as a result of negligence in design and tender work - Whether the Applicants owed a duty of care to the Respondents - *Edgeworth Construction Ltd. v. N.D. Lea & Associates Ltd.*, (1991) 53 B.C.L.R. (2) 180 (C.A.).

23543 Wayne Clifford Bond - v. - Her Majesty the Queen (Crim.)(Alta.)

CORAM: The Chief Justice and McLachlin 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 - Defence - Police - Narcotics - Entrapment - Did the Court of Appeal err in holding that notwithstanding the trial judge held the investigators had no reasonable suspicion that the Applicant was engaged in criminal activity that their approach to him was in the course of a *bona fide* investigation of suspected drug dealing? - Did the Court of Appeal err in holding that police agents' giving of a small quantity of cocaine to the Applicant which the trial judge held induced or caused him to traffic in cocaine to the police agents was permissible conduct and did not give rise to a finding that the Applicant was entrapped? - *R. v. Mack*, [1988] 2 S.C.R. 903.

23585 Donald Edison Cobham - v. - Her Majesty the Queen (Crim.)(Alta.)

CORAM: The Chief Justice and La Forest and McLachlin JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Section 10(b) violation - Right to counsel - Applicant subjected to demand to provide breath sample but not being informed he could obtain free advice immediately from Legal Aid lawyer whether or not he could afford a lawyer - Whether the Applicant was informed of his right to counsel - Whether the evidence obtained subsequent to the infringement of the Applicant's right to counsel should be excluded pursuant to s. 24(2) of the *Canadian Charter of Rights and Freedoms* - Whether the Court of Appeal erred in holding that the Applicant was under an obligation to adduce evidence of the existence of duty counsel programs in order to establish a breach of his right to counsel - Whether the Queen's Bench Justice sitting on summary conviction appeal erred in directing counsel to adduce further information relevant to the *Charter* provision that was at issue.

23593 Stanley Gordon Johnson - v. - Her Majesty the Queen (N.S.)

CORAM: The Chief Justice and McLachlin and Major JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Taxation - Indians - Interpretation - Interpretation of taxing statutes - Sales tax on tobacco products - Sale of tobacco products by Indian band member to non-natives taxable under provincial legislation - Whether Applicant, a registered Indian selling tobacco on an Indian reserve, is bound to comply with s. 25(2) of the *Tobacco Tax Act*, R.S.N.S. 1989, c. 470. - Whether the Court of Appeal erred in finding that s. 87 of the *Indian Act*, R.S.C. 1985, c. I-5, did not exempt the Applicant from the application of s. 25(2) of the *Tobacco Tax Act* - Whether the Court of Appeal erred in their finding that Article 4 of the Treaty of 1752 did not exempt the Applicant from the application of s. 25(2) of the *Tobacco Tax Act*.

23511 Her Majesty the Queen - v. - Brian C. (Crim.)(Ont.)

CORAM: The Chief Justice, McLachlin 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 - Evidence - Young offenders - Hearsay - Restricted use of out-of-court statements by one co-accused against another - Whether the Court of Appeal erred in law in holding that, in a joint trial of two accused, an out-of-court statement by one accused person may not provide support for the testimony of the complainant against the other accused - Whether or not the Court of Appeal erred in law in holding that the trial judge relied upon the out-of-court statement of one accused as direct evidence of the guilt of the other accused.

23527 Cream Silver Mines Ltd. - v. - Her Majesty the Queen in Right of the Province of British Columbia (B.C.)

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

Property law - Statutory instruments - Interpretation - Real property - Mines and minerals - Compensation - Crown - In determining that the property interest of the Applicant in and to its recorded mineral claims has not been taken by operation of Order-In-Council No. 2142/88 passed pursuant to the *Environment and Land Use Act*, R.S.B.C. 1979, c. 110, whether the Court of Appeal has erred in its application of the law of expropriation or compulsory taking - Whether the Court of Appeal erred by interpreting the failure of any applicable legislation to provide for a scheme of compensation for the expropriation of a recorded mineral claim within a park as meaning that no compensation was therefore payable if such claim were expropriated.

23549 Non-Labour Lien Claimants - v. - Her Majesty the Queen in Right of Canada as represented by the Minister of National Revenue-Taxation, and Transgas Limited, Saskatchewan's Workers' Compensation Board, P.E. Ben Industries Company Ltd., A.M. Inspection Ltd., Certified Rentals Ltd., Arrow Welding & Industrial Supplies Inc., Permanent Concrete (Division of Lafarge Canada) and Japa Industries Ltd. (Sask.)

CORAM: The Chief Justice and McLachlin and Major JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Constitutional - *Canadian Charter of Rights and Freedoms* - Taxation - Statutes - Interpretation - Whether s. 224(1.2) of the *Income Tax Act* meets the test of constitutionality prescribed by the Supreme Court of Canada in *Attorney General of Canada v. Attorney General of Alberta*, [1992] 2 S.C.R. 446 - Whether the intrusion of s. 224(1.2) of the *Income Tax Act* on provincial jurisdiction under ss. 92(13) or 92(16) of the *Constitution Act, 1867*, is justified in the circumstances where the garnishment of trust funds in the hands of an owner such as the Respondent TransGas Ltd., are not available to the sub-contractors and material suppliers of the defaulting contractor - If s. 224(1.2) is constitutional, whether trust funds held by the Respondent TransGas Ltd. were attachable and properly transferred to Revenue Canada to satisfy taxes which the contractor had failed to remit.

23586 Earl Hugh Giesbrecht - v. - Her Majesty the Queen (Crim.)(Man.)

CORAM: The Chief Justice and McLachlin 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 - Trial - Defence - Testimony - Expert witness - Defence of insanity - Charge to jury - Instructions to the jury on the use of psychiatric evidence - Statement by the accused to a psychiatrist about a delusion - Whether such statements tendered in the course of a trial where the issue is insanity, are original evidence, hearsay evidence admissible because it is necessary and reliable, or hearsay evidence that must be independently proved.

23636 James Egan and John Norris Nesbit - v. - Her Majesty the Queen in Right of Canada (F.C.A.)

CORAM: The Chief Justice and McLachlin and Major JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Constitutional law - *Canadian Charter of Rights and Freedoms* - Statutes - Interpretation - Applicant Nesbit's application for spousal allowance rejected on the basis that the relationship of the Applicants did not meet the definition of "spouse" prescribed by s. 2 of the *Old Age Security Act*, R.S.C. 1985, c. O-9 - Applicants seeking declarations that *Old Age Security Act* contrary to s. 15 of the *Charter*, that the definition of "spouse" in s. 2 be extended to include "partners in same-sex relationships otherwise akin to conjugal relationship" and that the Respondent be directed to pay the spousal benefit allowance - Whether Parliament can, as a matter of constitutional law, deprive homosexual couples of benefits that would otherwise be available to heterosexual couples.

23632 Her Majesty the Queen - v. - K.A.R. (Crim.)(N.S.)

CORAM: The Chief Justice and McLachlin and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

23422 Catherine Squires - v. - Her Majesty the Queen in right of the Province of Ontario (Crim.)(Ont.)

CORAM: The Chief Justice and McLachlin 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* - Statutes - Interpretation - Applicant charged under s. 67(2)(a) of the *Judicature Act*, R.S.O. 1980, c. 223, with having directed the taking of a film of a person leaving a room in which judicial proceedings were being conducted - Applicant's motion to quash on the ground that s. 67 was inconsistent with s. 2(b) of the *Charter* dismissed - Whether s. 67 of the *Judicature Act*, in its entirety infringes s. 2(b) of the *Charter* and, if so, whether the section is saved by s. 1 - Whether, if the Court of Appeal did not err in narrowing the issue to the constitutional validity of s. 67(2)(a)(ii), it erred in finding that while the freedoms guaranteed the Applicant under s. 2(b) were infringed by s. 67(2)(a)(ii), the impugned legislation was nevertheless justified under s. 1 - Whether, in applying s. 1 and determining whether there is a rational connection, there must be an actual demonstration of harm proven between the societal objective and the impugned legislation or merely a possibility of harm.

23608 Her Majesty the Queen - v. - Mathew Oommen (Crim.)(Alta.)

CORAM: The Chief Justice and McLachlin 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 - Defence - Evidence - Interpretation - Insanity - Section 16(1) of the *Criminal Code*, R.S.C. 1985, c. C-46 - Applicant convicted of murder after trial where defence of insanity not fully canvassed - Applicant suffering from paranoid delusions and killing victim because of fear of being killed by her - Whether the Court of Appeal erred in law in holding that the trial judge erred in law in failing to consider evidence of a delusion caused by mental disorder which may give rise to a justification for the killing - Whether the Court of Appeal erred in law in holding that s. 16(1) embodies a defence of "incapacity to apply knowledge" because of a delusion caused by a mental disorder.

23643 Matsqui Indian Band and Matsqui Indian Band Council - v. - Canadian Pacific Limited and Unitel Communications Inc. - and between - Siska Indian Band and Siska Indian Band Council, Kanaka Bar Indian Band and Kanaka Bar Indian Band Council, Nicomen Indian Band and Nicomen Indian Band Council, Shuswap Indian Band and Shuswap Indian Band Council, Skuppah Indian Band and Skuppah Indian Band Council, Spuzzum Indian Band and Spuzzum Indian Band Council - v. - Canadian Pacific Limited (F.C.A.)

CORAM: The Chief Justice and McLachlin and Major JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Administrative law - Indians - Taxation - Constitutional law - Division of powers - Statutory instruments - Appeal - Courts - Jurisdiction - Judicial review - Assessment appeal provisions in by-law - Motion pursuant to s. 18 of the *Federal Court Act* to quash and set aside a notice of tax assessment issued by the individual Applicants against the Respondents on lands in the Applicants' reserves which the Respondents contend are exempt from taxation - Whether the Boards of Review established by the Assessment By-law have the jurisdiction to interpret their constituent legislation and determine the interest of the taxpayer in the property being taxed or whether these must be determined by a judge appointed pursuant to s. 96 of the *Constitution Act*? - Whether part of the assessment by-law which creates a right of appeal to the Federal Court is *ultra vires* - Jurisdiction of the Federal Court with respect to judicial review - Discretion.

23516 Joseph Apsassin, Chief of the Blueberry River Indian Band, and Jerry Attachie, Chief of the Doig River Indian Band, on behalf of themselves and all other members of the Doig River Indian Band, the Blueberry River Indian Band and all present descendants of the Beaver Band of Indians - v. - Her Majesty the Queen

in Right of Canada as represented by the Department of Indian Affairs and Northern Development and the Director of the Veterans' Land Act (F.C.A.)

CORAM:The Chief Justice and McLachlin and Major JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Indians - Procedural law - Property law - Statutes - Interpretation - Limitation of actions - Agency - Land claims - Fiduciary duty - Mineral rights - Applicants surrendering mineral rights and reserve land - Reserve land later transferred to veterans - Applicants bringing action in damages and seeking declaration that surrenders and transfer were null and void - Whether the majority of the Federal Court of Appeal erred in holding that the Crown did not breach its fiduciary duty - Whether s. 51(3) of the *Indian Act* is merely directory - Whether the majority of the Federal Court of Appeal erred in concluding that mineral rights were included in the 1945 surrender - Whether the Director of the *Veterans' Land Act* was an agent of the Crown - Whether the majority of the Federal Court of Appeal erred in holding that a fiduciary obligation was not transmitted to the Director of the *Veterans' Land Act* - Whether the majority of the Federal Court of Appeal erred in holding that the 30-year ultimate limitation period in the B.C. *Limitation Act* barred the Applicants' claim.

23542 Her Majesty the Queen - v. - Verlie Ann Halcrow - and between - Verlie Ann Halcrow v. Her Majesty the Queen (Crim.)(B.C.)

CORAM:The Chief Justice and McLachlin and Major JJ.

The application for leave to appeal is granted on count no. 5. The application for leave to cross-appeal is dismissed.

La demande d'autorisation d'appel est accordée relativement au cinquième chef d'accusation. La demande d'autorisation d'appel incident est rejetée.

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Procedural law - Prescriptions - Did Court of Appeal err in finding that included offences (common assault) were subject to limitation periods, and that convictions could not be entered?

23682 Gregory McMaster - v. - Her Majesty the Queen (Crim.)(Ont.)

CORAM:The Chief Justice and McLachlin and Major 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 - Appeals - Unreasonable delay - Whether judge at first instances erred in holding that right to trial within reasonable time had not been infringed - Did Court of Appeal err in quashing appeal.

23659 Randall Clifford Lawrence - v. - Her Majesty the Queen (Crim.) (Alta.)

CORAM: The Chief Justice and McLachlin 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* - Constitutional law - Statutes - Interpretation - Offenses - Applicant charged on one count of causing a disturbance by swearing and one count of resisting arrest - Applicant convicted of resisting arrest - Whether the trial judge erred in holding that the arrest of the Applicant was not unlawful because the offence of causing a disturbance by swearing, created by s. 175(1)(a)(i) of the *Criminal Code*, R.S.C. 1985, c. C-46, is, pursuant to s. 52 of the *Constitution Act, 1982*, of no force and effect, because it infringes s. 2(b) of the *Charter* and cannot be justified by s. 1 of the *Charter* - Whether an arrest, even if made in good faith, for the offence created by s. 175(1)(a)(i) of the *Criminal Code*, is a valid arrest for the purpose of the offence of resisting arrest.

23709**The Gemini Group Limited Partnership, The Gemini Group Automated Distribution System Inc. - and - The Director of Investigation and Research, PWA Corporation, Canadian Airlines International Ltd. - and between - Covia Canada Corp., Covia Canada Partnership Corp. - and - The Director of Investigation and Research, PWA Corporation, Canadian Airlines International Ltd. - and between - Air Canada - and - The Director of Investigation and Research and PWA Corporation, Canadian Airlines International Ltd. (F.C.A.)**

CORAM: The Chief Justice and Sopinka and Iacobucci JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Administrative law - Appeals - Judicial review - Jurisdiction - Remedies - Tribunals - Competition law - Powers of the Competition Tribunal to vary prior Tribunal orders - Appropriate test to determine those circumstances in which the Tribunal is permitted to vary or rescind an existing consent order without the consent of the persons against whom the order is made - Circumstances in which an appeal court can substitute its own findings for the findings of fact and mixed findings of fact and law made by a specialized tribunal.

23708**PWA Corporation - and - The Gemini Group Automated Distribution Systems Inc., Air Canada, and Covia Canada Partnership Corp. (Ont.)**

CORAM: The Chief Justice and Sopinka and Iacobucci JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Commercial law - Fiduciary duties - Partnership agreements - Dissolution - Jurisdiction - Competition law - Whether the majority of the Court of Appeal misinterpreted the Court's equitable jurisdiction under s. 35(f) of the *Partnerships Act*, R.S.O. 1990, c. P-5, by failing to order dissolution of the Partnership on the basis that it would be just and equitable to do so - Whether the majority of the Court of Appeal erred in finding a breach of the PWA nominee directors' fiduciary duties.

23371BANK OF MONTREAL v. CARL KENNETH BALE (Ont.)

CORAM: La Forest, Sopinka and Iacobucci 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 - Property - Personal property - Securities - Statutes - Interpretation - Indebtedness to bank secured by an assignment of milk quota and proceeds - Whether the Court of Appeal for Ontario erred in law in failing to hold that the milk quota allotted to the Respondent by the Ontario Milk Marketing Board pursuant to the provisions of the *Milk Act*, R.S.O. 1980, c. 266, as amended, is "property" to which the security interests created by the Respondent in favour of the Applicant can attach pursuant to the provisions of the *Personal Property Security Act*, R.S.O. 1980, c. 375.

23401MURRAY WEBER v. ONTARIO HYDRO (Ont.)

CORAM: La Forest, Cory and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Labour law - *Canadian Charter of Rights and Freedoms* - Labour relations - Arbitration - Collective agreement - Jurisdiction - Whether the Court of Appeal erred in its interpretation and application of s. 45(1) of the *Labour Relations Act*, R.S.O. 1980, c. 228 - Whether the Court of Appeal erred in holding that the existence of a collective agreement and the grievance procedure ousted the jurisdiction of the Court with respect to a tort action based on the same impugned conduct of the employer that gave rise to the grievance.

23485ELIZABETH VINCENT c. SA MAJESTÉ LA REINE (Crim.) (Ont.)

CORAM: Les juges La Forest, Cory et Iacobucci

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

NATURE DE LA CAUSE

Indiens - Droit constitutionnel - Droit international - Interprétation - Demanderesse trouvée coupable de possession de marchandise illégalement importée au Canada, du tabac, selon l'art. 160 de la *Loi sur les douanes*, S.C. 1986, ch. 1, par la

Cour de justice de l'Ontario, Division provinciale - Appel rejeté par la Cour d'appel de l'Ontario - Est-ce que le Traité Jay est un traité au sens de l'art. 35 de la *Loi constitutionnelle de 1982*? - Est-ce que l'art. 3 du Traité Jay peut être source de droit pour une catégorie de citoyens d'une des parties contractantes, les Indiens du Canada, ou corrélativement d'une obligation pour la Couronne du Chef du Canada à l'égard de ces Indiens? - Est-ce que les droits reconnus par l'art. 3 du Traité Jay aux Indiens sont devenus caducs? - Quel est le sens de l'art. 3 du Traité Jay et de l'expression "their own proper goods and effects" qui y est contenue?

23522EVELYN ROSE GRAFF v. HER MAJESTY THE QUEEN (Crim.) (Alta.)

CORAM: La Forest, Cory 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 - Administrative law - Sentencing - Judicial review - Barristers and solicitors - Appeal - Applicant pleaded guilty to conspiracy to murder and was sentenced to 10 years imprisonment - Applicant's daughter also pleaded guilty to the same offence and was sentenced to 18 months imprisonment - Counsel for the Applicant is the father of counsel for the Applicant's daughter - Whether the Court of Appeal of Alberta erred in law in holding that the Applicant must show that there was an actual conflict of interest and that that actual conflict adversely affected the lawyer's performance on behalf of the Applicant in order to successfully challenge the sentence on appeal - Whether the Court of Appeal erred in law in holding that there was no real or apparent conflict of interest in this case.

23415ATTORNEY GENERAL FOR ONTARIO v. CARLO MONTEMURRO, THE REGIONAL MUNICIPALITY OF NIAGARA, ARTHUR ALDERMAN, BRENDA ALDERMAN, WILLIAM ANTONIUK, YVONNE ANTONIUK, THE BANK OF NOVA SCOTIA, EMMY BAXTER, STEVE BAXTER, BRIAN BELLOWS, FLORENCE BELLOWS, KAREN BELLOWS, STEPHEN BELLOWS, STEVE BELLOWS, CLIFFORD BROWN, JENNY BROWN, ROBERT BROWN, SUZANNE BROWN, TAMMY BROWN, FREDERICK CAPLAN, KAREN ELAINE CAPLAN, PAUL CAPLAN, ALLAN CLARK, LAIMA DAMBRAUSKAS, ALBERT DELGIACCO, ANTHONY DELGIACCO, SUSAN DELGIACCO, SANDY DEWOLFE, ANNA DICIENZO, ANTHONY DICIENZO, DINO DICIENZO, DINO A. DICIENZO, MICHAEL DICIENZO, DOUGLAS G. URE & SONS INC., 851981 ONTARIO LTD., 886846 ONTARIO LTD., FARM CREDIT CORPORATION CANADA, BARBARA FARR, DAVID FARR, KIMBERLY FARR, LLOYD FARR, FIRST CANADIAN BUSINESS CONSULTANTS LTD., 501414 ONTARIO LTD., 567822 ONTARIO LTD., 587822 ONTARIO LTD., MARIO FUCILE, ANTHONY GERDEN, KATHLEEN GERDEN, JOY GILLET, JOHN GINNETTI, BRENDA GLASSMAN, SHIRLEY GLASSMAN, OFFICIAL GUARDIAN AS LITIGATION GUARDIAN FOR AARON GROSS, OFFICIAL GUARDIAN AS LITIGATION GUARDIAN FOR DANIELLE GROSS, HELEN GROSS, HELEN MAUD GROSS and WILLIAM SLOVAK, Administrators for the Estate of DOUGLAS FRANKLIN GROSS, INCOME TRUST COMPANY, JULIE LANGDON, BRIAN LENART, JOANN LENART, LINDA LENART, VINCENT JOHN LENART, BENEVENTO LEONARDO, MARIA LEONARDO, LINCOLN & WELLAND INVESTMENTS LTD., ANNA MANZA, TONINA MANZA, JOSEPHINE MARSALA, PASQUALE MARSALA, ANN MASON, LAWRENCE MATTAR, CARMAN MAZZEI, DEBBIE MURDZA, PETER MURDZA, STAN MURDZA, STEVE MURDZA, VIVIAN MURDZA, INDRA PASKAUSKAS,

RAYMOND PASKAUSKAS, RICHARD PERRY, KENNETH PIERI, EDDY PIZZO JR., GUY JOSEPH POTTER, GUIDO PRATA, DANIEL JAMES PRESTON, DEBORAH HELEN PRESTON, GEORGE LEONARD PRESTON, GEORGE LEONARD PRESTON, Executor of the Estate of HELEN LAURENE PRESTON, LEONARD BRUCE PRESTON, PATRICIA DIANE PRESTON, SHELLY LAURENE PRESTON, WILLIAM FRANK PRESTON, INA RADZIUNAS, BARRY ROBBINS, DIANNE ROBERTS, GARTH ROBERTS, BARBARA RODGERS, SCAMAD VENTURES LTD., ANTHONY SDAO, FRANK SDAO, ANGELA SHAVALIER, VAUGHN SHELDON SHAW, 687231 ONTARIO LTD., CYNTHIA SKINNER, WILLIAM SLOVAK, LORRAINE SMALL, ROBERT SMALL, DONNA THOMSON, ILONA TURCZYN, HEATHER TURNBULL, BARBARA TURNER, JAMES ANDREW VANDERBURGH, JOAN VAUGHAN, SANDRA VENTRES CA, TIMOTHEU S. WOERLEN AND THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE v. THE ESTATE OF DOUGLAS FRANKLIN GROSS AND EMMY BAXTER, ANNA MANZA, STEVEN MURDZA, VIVIAN MURDZA, ANGELA SHAVALIER, LORRAINE SMALL and ROBERT SMALL, Beneficiaries of the Estate of DOUGLAS FRANKLIN GROSS AND THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE v. GEORGE LEONARD PRESTON, Executor of the Estate of HELEN LAURENE PRESTON (Ont.)

CORAM: La Forest, Cory and Iacobucci JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Property law - Real property - Land titles - Executors and administrators - *Planning Act*, 1983, S.O. 1983 c. 1, s. 49 (3) - Subdivision of land through testamentary devise - Was scheme entered into by Respondents a fraud upon the *Planning Act*? - Did Court of Appeal err in not holding that trial judge erred in finding there was no agreement under s. 49(3) of the *Planning Act*?

23483 VICTOR R. DURISH v. WHITE RESOURCE MANAGEMENT LTD., THE ROYAL BANK OF CANADA and WRM RESOURCES LTD. (Alta.)

CORAM: La Forest, Cory and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Property law - Land titles - Mines and Minerals - Real rights - Leases - Who has the priority interest in rights to petroleum and natural gas in subject lands - Effect of lapse of a protective caveat - Is the unprotected interest extinguished or can it be restored to its former priority on the register - Whether the caveat of a lessee under an unregistered agreement represents an enforceable interest in the land - Whether such caveat can serve as either registration or notice of the interest of the grantor of such lease - Whether caveat can have retroactive effect - Whether, absent fraud, a Court can invoke its equitable jurisdiction - Whether *Boulter-Waugh and Co. Ltd. v. Union Bank of Canada*, [1919] 58 S.C.R. 385, and *McFarland v. Hauser and Sunderland* (1977), 2 A.L.R. (2d) 289, remain the law with regard to the effect of a lapsed caveat - Whether, even prior to the introduction of the current s. 135.1 of the *Land Titles Act*, in 1982, it was the law in Alberta and Saskatchewan that an assignee of the entire interest of a caveator obtained priority on the register as if he were the original caveator.

23517 IHOR BARDYN, BOHDAN ONYSCHUK, BOHDAN ZAROWSKY, Q.C. and W. YURIJ DANYLIW, Q.C. v. Y.R. BOTIUK (Ont.)

CORAM: La Forest, Cory and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Torts - Libel and slander - Damages - Costs - Respondent claimed damages for libel he alleged was committed by the Applicants and others through the publication of six different documents attacking his professional reputation within the Ukrainian community - Whether the Court of Appeal erred in upholding the trial judge's finding of libel - Whether the Court of Appeal erred in reducing the damage award - Whether the Court of Appeal erred in upholding the trial judge's ruling with respect to costs.

23519B.I.MAKSYMEC and MAKSYMEC & ASSOCIATES LTD. v. Y.R. BOTIUK (Ont.)

CORAM: La Forest, Cory and IacobucciJJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Torts - Libel and slander - Damages - Costs - Respondent claimed damages for libel he alleged was committed by the Applicants and others through the publication of six different documents attacking his professional reputation within the Ukrainian community - Whether the Court of Appeal's award of damages violated the principles previously articulated by the Supreme Court of Canada in respect of damage awards in libel cases - Whether the Court of Appeals award of damages was structured for the primary purpose of enabling the Respondent to secure a payment of his solicitor and client costs of trial - Whether the Court of Appeal erred in its interpretation and application of the law of qualified privilege

23433KEITH DEMPSEY v. HER MAJESTY THE QUEEN (Crim.) (N.S.)

CORAM: La Forest, Cory and IacobucciJJ.

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* - Statutes - Interpretation - Applicant charged with impaired driving - Preliminary motion requesting that the Information, in English only, be declared null on the ground that it contravened s. 841(3) of the *Criminal Code* - Test and reference ampoules used in the breathalyser testing of the Applicant saved but not released to Applicant's counsel for independent analysis - Information amended and Applicant convicted under s. 253(b) of the *Criminal Code* - Determination of paramountcy between the *Official Languages Act* and the *Criminal Code* - Whether the language issue with respect to pre-printed *Criminal Code* forms can be said to be a mere issue of procedure and technical form or is it of sufficient importance to be considered an issue of substance - Whether a unilingual form required under s. 841(3) of the *Criminal Code* to be bilingual can be amended to satisfy the *Criminal Code* - Whether a violation of the language rights under the *Charter* can be cured by a simple amendment - Extent of disclosure in breathalyser cases - Extent of the duty of disclosure on the Respondent and police with respect to breathalyser ampoules and the opportunity to make full answer and defence.

23518 GAIL ROBERTA ST. PIERRE v. HER MAJESTY THE QUEEN (Crim.) (Ont.)

CORAM: La Forest, Cory and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Criminal law - Statutes - Interpretation - Evidence - Applicant failing A.L.E.R.T. road test - Applicant consuming alcohol after being taken to police station and before taking breathalyser tests - Respondent relying on breathalyser test results as proof of the concentration of alcohol in the blood of the Applicant at the time she had care and control of the motor vehicle - Whether the Court of Appeal erred in its interpretation of the phrase "evidence to the contrary" as set out in s. 258(1)(c) of the *Criminal Code*, R.S.C. 1985, c. C-46.

23596 CANADIAN BROADCASTING CORPORATION v. HER MAJESTY THE QUEEN & T.S., and The Alleged Victims, DOUG McCONACHIE, ARMADALE COMMUNICATIONS, CANADIAN PRESS, RONALD STERLING, LINDA STERLING, TRAVIS STERLING, JAMES ELSTAD, DARRYL FORD, EDWARD REVESZ, DARREN SABOURIN and JOHN POPOWICH (Crim.) (Sask.)

CORAM: La Forest, Cory and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Criminal law - *Canadian Charter of Rights and Freedoms* - Procedural law - Young offenders - Evidence - Appeals - Order prohibiting the publication of evidence until all related trials completed granted by Provincial Youth Court of Saskatchewan - Whether there is right of appeal for the media affected by an order restricting publication of evidence at a trial from the decision which restricts publication - Principles applicable in balancing the right of the media guaranteed by s. 2(b) of the *Charter* against the interests of witnesses and other third parties which might be affected by publication - Whether the Provincial Youth Court judge erred in restricting the media's right to publish the evidence at the trial of the accused Respondent, T.S.

23584 YUKON HUMAN RIGHTS COMMISSION and MADELEINE GOULD v. YUKON ORDER OF PIONEERS, DAWSON LODGE NUMBER 1 and WALTER GRONER (Yuk.)

CORAM: La Forest, Cory and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Civil rights - Procedural law - Statutes - Interpretation - Applicant Gould's application for membership to Respondent Order of Pioneers rejected because of her sex - Board of Adjudication allowing complaint of discrimination pursuant to Yukon *Human Rights Act*, S.Y. 1987, c. 3 - Whether the Court of Appeal erred in reversing the Board's finding of fact concerning the Pioneers' service and the quality of that service as being affected by the refusal of membership to women - Whether the Court of Appeal erred in interpreting s. 8(a) of the *Act* narrowly - Whether the Court of Appeal erred in balancing the anti-discrimination prohibition of the *Act* against other freedoms provided for in the *Act*, outside of the context of any provision in the *Act* similar to s. 1 of the *Charter*, and in using the *Act*'s freedom of expression guarantees to restrict the scope of the anti-discrimination prohibition in section 8(a) of the *Act*, thereby departing from *R. v. Keegstra* - Whether the Court of Appeal erred in holding that it did not have to consider whether there was reasonable cause for discrimination by the Pioneers under s. 9 of the *Act* or whether the actions of the Pioneers were exempted under s. 10 of the *Act*.

23502 COOPERATORS GENERAL INSURANCE CO. v. JUDGMENT RECOVERY (P.E.L) LTD. (P.E.L)

CORAM: La Forest, Cory 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 - Statutes - Insurance - Judgment and orders - Renewal - Whether owner insured although premium not paid - Whether a policy of insurance is renewed by the forwarding of renewal documents and whether the delivering of an insurance card ("pink slip") is a policy of insurance in and of itself - *Insurance Act*, R.S.P.E.I., 1988, Cap. I-4.

23624 WINNIPEG CONDOMINIUM CORPORATION NO. 36 v. BIRD CONSTRUCTION CO. LTD. (Man.)

CORAM: La Forest, Cory and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Torts - Negligence - Real property - Contracts - Economic loss - Whether an immediate successor in title can recover damages for pure and direct economic loss resulting from the negligence of a contractor originally retained to construct a building - Whether in a situation involving the collapse of a portion of the exterior cladding of a residential building, with resultant danger to the remainder of the building, unit-owners and passers-by, the entire cost of replacing the masonry can properly be described as "pure economic loss" - Whether the law in Canada is contradictory and unsettled on these points - Whether the maxim "*caveat emptor*" is applicable when realty is neither sold nor transferred but is, rather, converted into a condominium - Whether the foregoing questions should properly be dealt with by way of summary judgment without all relevant evidence being before the Court - Whether the Court of Appeal made palpable and overriding errors.

23623 KENNETH BARTLE v. HER MAJESTY THE QUEEN (Crim.) (Ont.)

CORAM: La Forest, Cory and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Criminal law - *Canadian Charter of Rights and Freedoms* - Evidence - Detention - Police officers not informing Applicant of 24-hour duty counsel or of the free long distance legal aid number - Whether the Court of Appeal erred in holding that the post-*Brydges* informational component of s. 10(b) does not of necessity require a reference to the toll free legal aid telephone number and of the availability of immediate and free access to legal advice through duty counsel - Whether the Court of Appeal erred in holding that if this information is required as part of the informational component of s. 10(b), that the admission of the evidence in this case would not bring the administration of justice into disrepute.

23642 WALTER POZNIAK v. HER MAJESTY THE QUEEN (Crim.) (Ont.)

CORAM: La Forest, Cory and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Criminal law - *Canadian Charter of Rights and Freedoms* - Evidence - Detention - Police officers not informing Applicant of 24-hour duty counsel or of the free long distance legal aid number - Whether the Court of Appeal erred in interpreting *R. v. Brydges*, [1990] 1 S.C.R. 190 - Whether the Court of Appeal erred in concluding that a detainee must expressly demonstrate a misunderstanding of his right to immediate free legal advice from duty counsel before a police officer is required to inform of the existence of such a right - Whether the Court of Appeal erred in concluding that the police did not have an obligation to advise of the existence of immediate free legal advice from 24-hour duty counsel.

23382 THE EASTMAIN BAND, THE NEMASKA BAND, THE MISTISSINI BAND, THE CREE REGIONAL AUTHORITY, THE GRAND COUNCIL OF THE CREES (OF QUÉBEC), CHIEF KENNETH GILPIN, DEPUTY CHIEF LAWRENCE JIMIKEN, CHIEF HENRY MIANSCUM and PHILIP AWASHISH v. RAYMOND ROBINSON, THE HONOURABLE JEAN CHAREST, THE HONOURABLE TOM SIDDON, THE HONOURABLE JEAN CORBEIL and THE HONOURABLE JOHN CROSBIE, and THE ATTORNEY GENERAL OF QUÉBEC HYDRO-QUÉBEC, and MAKIVIK CORPORATION (Qué.)

CORAM: L'Heureux-Dubé and Sopinka, Gonthier 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

Indians - Environmental law - Energy - Interpretation - Administrative law - Prerogative writs - *Mandamus* - James Bay and Northern Quebec Agreement - Principles of interpretation applicable to modern treaties - Whether the Eastmain 1 hydroelectric development project is exempt from the environmental review regime provided in s. 22 of the JBNQA - Whether the project is subject to the Environmental Assessment and Review Process Guidelines Order, SOR/84-467.

**23397 CLAUDETTE LUSSIER c. VILLE DE SEPT-ÎLES et LES FONDS NORDIC LTÉE et LE
RÉGISTRATEUR DE LA DIVISION D'ENREGISTREMENT DE SEPT-ÎLES (Qué.)**

CORAM: Les juges L'Heureux-Dubé, Sopinka et Gonthier.

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 - Procédure civile - Droit des biens - *Code civil* - Immeubles - Saisie - Demanderesse acquérant immeuble saisi par dation en paiement - Opposition afin d'annuler la saisie de la demanderesse rejetée par la Cour supérieure du Québec - Appel rejeté par la Cour d'appel du Québec - Le jugement de la Cour d'appel va-t-il à l'encontre d'une tendance largement majoritaire dans la jurisprudence, créant ainsi une confusion majeure chez les justiciables et dans le monde juridique oeuvrant dans le domaine immobilier - Est-ce qu'une saisie immobilière consécutive à un jugement rendu pour arrérages de taxes municipales survit ou non à l'exercice d'une clause de dation en paiement comportant un effet rétroactif à la date de l'emprunt - Est-ce que l'enregistrement d'une dation en paiement, fut-elle volontaire, va ou non à l'encontre des articles 2090 et 2091 du *Code civil* et de l'article 669 du *Code de procédure civile*, au motif que l'enregistrement surviendrait après la saisie de l'immeuble.

23471 SA MAJESTÉ LA REINE c. JAMES QUICKFALL (Crim.) (Qué.)

CORAM: Les juges L'Heureux-Dubé, Sopinka et Gonthier.

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

NATURE DE LA CAUSE

Droit criminel - Législation - Interprétation - Interprétation des infractions - Intimé déclaré coupable par la Cour municipale du Québec d'avoir commis un méfait au sens de l'art. 430(1)a) du *Code criminel*, L.R.C. (1985), ch. C-46 - Appel de l'intimé rejeté par la Cour supérieure du Québec - Appel de l'intimé accueilli par la Cour d'appel du Québec - Est-ce que la Cour d'appel a erré en droit en interprétant le mot "détériorer" de l'art. 430(1)a) du *Code criminel* - Est-ce que la Cour d'appel a erré en droit en décidant qu'il y a lieu de distinguer s'il s'agit d'un bien public ou privé pour déterminer si la détérioration d'un bien constitue un méfait au sens de l'art. 430(1)a) du *Code criminel*.

**23460, 23490 RJR-MACDONALD INC. v. THE ATTORNEY GENERAL OF CANADA - and between -
IMPERIAL TOBACCO LTD. v. THE ATTORNEY GENERAL OF CANADA (Que.)**

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

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Constitutional law - Division of powers - Motions for Declaratory Judgment in which Applicants challenging constitutional validity of *Tobacco Products Control Act*, S.C. 1988, c. 20, on the grounds that it is *ultra vires* of the Parliament of Canada pursuant to ss. 91 and 92 of the *Constitution Act, 1867*, and invalid as being inconsistent with s. 2(b) of the *Charter* - Superior Court of Quebec granting Applicants' Motions - Court of Appeal for Quebec allowing Respondent's appeal - Whether the Court of Appeal erred in characterizing the *Act* as relating to the national concern of public health and in concluding that it was valid as legislation for the peace, order and good government pursuant to s. 91 of the *Constitution Act, 1867* - Whether the Court of Appeal erred in concluding that the ban on advertising constituted a minimal impairment of the right to freedom of expression pursuant to s. 2(b) of the *Charter* - Whether the Court of Appeal erred in concluding that the unattributed messages did not violate s. 2(b) of the *Charter* - Whether the Court of Appeal erred in concluding that the *Act* was justifiable under s. 1 of the *Charter*.

23521 ROGER ST-LAURENT et MICHELINE LACROIX c. DANIELE DORAIS (Qué.)

CORAM: Les juges L'Heureux-Dubé, Sopinka et Gonthier.

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 - Procédure civile - Jugements et ordonnances - Recours - Droit municipal - Municipalités - Tierce-opposition - Chose jugée - Action de l'intimée contre la corporation municipale où elle habite accueillie - Requête en rétractation de jugement présentée par les demandeurs en vertu de l'art. 489 du *Code de procédure civile*, L.R.Q. (1977), ch. C-25 - Requête en irrecevabilité de l'intimée en vertu de l'art. 165 *C.p.c.* accueillie et requête en rétractation de jugement rejetée - Portée et limites du principe de la représentation légale de tous les citoyens par leur corporation municipale devant les tribunaux dans une affaire où un règlement de zonage est attaqué.

23587PARTAGEC INC. c. COMMUNAUTÉ URBAINE DE QUÉBEC et VILLE DE QUÉBEC et BUREAU DE RÉVISION DE L'ÉVALUATION FONCIÈRE DU QUÉBEC (Qué.)

CORAM:Les juges L'Heureux-Dubé, Sopinka et Gonthier.

La demande d'autorisation d'appel est accordée.

The application for leave to appeal is granted.

NATURE DE LA CAUSE

Droit fiscal - Législation - Interprétation - Demanderesse invoquant les art. 204(14) et 236(1.1) de la *Loi sur la fiscalité municipale*, L.R.Q., ch. F-2.1, pour obtenir l'exemption de taxes foncières et de taxes d'affaires - Est-ce que la Cour d'appel a erré en posant la règle que toute exemption fiscale doit être interprétée restrictivement et en l'appliquant aux art. 204(14) et 236(1.1) de la *Loi*? - La Cour d'appel a-t-elle eu raison de considérer la demanderesse comme un occupant imposable d'un immeuble exempt en vertu de l'art. 204(14) de la *Loi*? - La Cour d'appel a-t-elle eu raison de permettre à l'évaluateur de l'intimée, la Communauté urbaine de Québec, de changer d'avis quant au caractère non imposable de la demanderesse, pour les exercices financiers de 1985 et 1986?

23604CONSEIL DE LA SANTÉ et DES SERVICES SOCIAUX DE LA RÉGION DE MONTRÉAL MÉTROPOLITAIN c. VILLE DE MONTRÉAL et COMMUNAUTÉ URBAINE DE MONTRÉAL - et entre - BUANDERIE CENTRALE DE MONTRÉAL INC. c. VILLE DE MONTRÉAL et COMMUNAUTÉ URBAINE DE MONTRÉAL (Qué.)

CORAM:Les juges L'Heureux-Dubé, Sopinka et Gonthier.

La demande d'autorisation d'appel est accordée.

The application for leave to appeal is granted.

NATURE DE LA CAUSE

Droit fiscal - Municipalités - Législation - Interprétation - Procédure - Appel - Taxes d'affaires - Taxes foncières - Droit des demandeurs de bénéficier des exemptions fiscales prévues aux art. 204(14) et 236 de la *Loi sur la fiscalité municipale*, L.R.Q. 1977, ch. F-2.1 - Définition de l'expression "établissement public" au sens des art. 1b), 10 et 11 de la *Loi sur les services de santé et les services sociaux*, L.R.Q. 1977, ch. S-5 - Application du principe de l'*alter ego* en matière de fiscalité municipale - Principes d'interprétation applicables aux lois fiscales - Refus de la Cour d'appel de considérer un moyen additionnel soulevé en appel.

MOTIONS

REQUÊTES

6.10.1993

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai de signification et de production du mémoire des appelants

The Tseshah et al.

With the consent of the parties.

v. (23234)

Her Majesty The Queen in right of British Columbia (B.C.)

GRANTED / ACCORDÉE Time extended to December 15, 1993.

7.10.1993

Before / Devant: CORY J.

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

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

Walter Pozniak

With the consent of the parties.

v. (23642)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE Time extended to Sept. 23, 1993.

7.10.1993

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai de signification et de production du mémoire des appelants

Bruce Douglas Branch et al.

With the consent of the parties.

v. (22978)

British Columbia Securities Commission (B.C.)

GRANTED / ACCORDÉE Time extended to October 1, 1993.

30.9.1993

Before / Devant: IACOBUCCI J.

Motion to extend the time in which to serve and file the respondent's factum and motion to strike out passages from the factum

Requête en prorogation du délai de signification et de production du mémoire de l'intimée et requête en radiation de passages du mémoire

F.D.

Heather Perkins-McVey, for the appellant.

v. (23325)

Robert Houston, Q.C., for the respondent.

Her Majesty The Queen (Ont.)

IT IS HEREBY ORDERED THAT:

1. The motion for an extension of time is granted. The time for serving and filing the respondent's factum is extended to September 22, 1993 *nunc pro tunc*.
2. The motion to strike out portions of the respondent's factum is denied.
3. In view of the length of delay in the delivery of the respondent's factum, and the time required by the appellant to prepare a reply to the new material contained therein, the hearing of this appeal shall be adjourned to the session of this Court commencing in January, 1994.
4. In view of the circumstances, the appellant shall have his costs on both applications.

12.10.1993

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file a joint respondents' argument

Requête en prorogation du délai de signification et de production du mémoire conjoint des intimés

Shaw Cable Systems (B.C.) Ltd. et al.

With the consent of the parties.

v. (23717)

B.C. Telephone Co. et al. (F.C.A.)

GRANTED / ACCORDÉE Time extended to October 7, 1993 *nunc pro tunc*.

12.10.1993

Before / Devant: LE JUGE MAJOR

Motion for a review of the decision of the Registrar

Dalton Bassant

v. (23354)

Dominion Textile Inc. (Qué.)

Requête en révision de la décision du registraire

Henry S. Brown, for the motion.

No one appearing for the applicant.

GRANTED / ACCORDÉE

- 1.IT IS ORDERED that this application for review be granted.
- 2.IT IS FURTHER ORDERED that the Registrar may tax costs claimed in respect of the duly entered agent in an application for leave to appeal pursuant to the provisions of Tariff item 23 of Schedule B of the *Rules of the Supreme Court of Canada*, however the amount to be taxed in a particular case is within the discretion of the Registrar.
- 3.AND IT IS FURTHER ORDERED that the Registrar shall reconsider her decision to disallow the respondent's claim under Tariff item 23 in this case and determine the matter in accordance with paragraph 2 of this order.

13.10.1993

Before / Devant: LE REGISTRAIRE

Requête en prorogation du temps accordé pour la plaidoirie

Renvoi sur la taxe sur les produits et services (23690)(Qué.)

Motion for additional time to present oral argument

Avec le consentement des parties.

ACCORDÉE / GRANTED

**NOTICES OF APPEAL FILED SINCE
LAST ISSUE**

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

14.10.1993

RJR - MacDonald Inc.

v. (23460)

The Attorney General of Canada (Qué.)

**APPEALS HEARD SINCE LAST ISSUE
AND DISPOSITION**

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

6.10.1993

CORAM:Sopinka, Gonthier, Cory, McLachlin and IacobucciJJ.

Jimmy Joseph Smith

v. (23304)

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

SOPINKA J. (orally for the Court) -- It will not be necessary to hear from you Mr. Pinnock. The Court is ready to hand down judgment. The judgment will be pronounced by Mr. Justice Iacobucci.

IACOBUCCIJ. -- This appeal comes to us as of right. We agree, substantially for the reasons of Finlayson J.A. in the Ontario Court of Appeal, that the appellant was properly convicted of theft under s. 322 of the *Criminal Code*, R.S.C. 1985, c. C-46.

Accordingly, the appeal is dismissed.

Samuel Willoughby and Randall J. Hofley, for the appellant.

Roger A. Pinnock, for the respondent.

LE JUGE SOPINKA (oralement au nom de la Cour) -- Il ne sera pas nécessaire de vous entendre M^e Pinnock. La Cour est prête à rendre jugement, lequel sera prononcé par le juge Iacobucci.

LE JUGE IACOBUCCI -- Ce pourvoi est formé de plein droit devant notre Cour. Nous sommes d'accord, essentiellement pour les motifs du juge Finlayson de la Cour d'appel de l'Ontario, pour dire que c'est à bon droit que l'appellant a été reconnu coupable de vol en vertu de l'art. 322 du *Code criminel*, L.R.C. (1985), ch. C-46.

En conséquence, le pourvoi est rejeté.

7.10.1993

CORAM:The Chief Justice Lamer and L'Heureux-Dubé, Sopinka, McLachlin and IacobucciJJ.

Her Majesty The Queen

v. (23313)

Keith Gordon Profit (Crim.)(Ont.)

THE CHIEF JUSTICE (orally for the Court) -- Mr. Justice Sopinka will pronounce the judgment of the Court.

SOPINKA J. -- We agree with the conclusion of Griffiths J.A. in his dissenting reasons. When the reasons of the trial judge are considered as a whole, we are satisfied that he dealt with the character evidence tendered in this case adequately. The reasons of the trial judge must be viewed in light of

Carol A. Brewer, for the appellant.

Brian H. Greenspan, for the respondent.

LE JUGE EN CHEF (oralement au nom de la Cour) -- Monsieur le juge Sopinka prononcera le jugement de la Cour.

LE JUGE SOPINKA -- Nous sommes d'accord avec la conclusion du juge Griffiths de la Cour d'appel dans ses motifs de dissidence. Lorsque nous examinons les motifs du juge du procès dans leur ensemble, nous sommes convaincus qu'il a traité adéquatement de la preuve de moralité présentée en

the fact that as a matter of common sense, but not as a principle of law, a trial judge may take into account that in sexual assault cases involving children, sexual misconduct occurs in private and in most cases will not be reflected in the reputation in the community of the accused for morality. As a matter of weight, the trial judge is entitled to find that the propensity value of character evidence as to morality is diminished in such cases.

Accordingly, the appeal is allowed
and the convictions restored.

8.10.1993

CORAM: The Chief Justice Lamer and Sopinka, McLachlin, Iacobucci and Major JJ.

Robert Laurent Leduc

v. (23368)

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

THE CHIEF JUSTICE (orally for the Court) -- Mr. Justice Sopinka will pronounce the judgment of the Court.

SOPINKA J. -- This is an appeal as of right. The power to stay proceedings on the ground of abuse of process must only be exercised in the clearest of cases and when it is shown that the conduct complained of violated those fundamental principles of justice which underlie the community's sense of fair play and decency. This is not one of those cases. Nor would compelling the accused to stand trial be oppressive or vexatious in this case. The appeal is dismissed.

l'espèce. Il faut considérer les motifs du juge du procès en tenant compte du fait que, par simple bon sens, mais non pas comme principe de droit, un juge du procès peut prendre en considération que, dans les affaires d'agression sexuelle mettant en cause des enfants, la mauvaise conduite se produit en privé et, dans la plupart des cas, ne rejaillira pas sur la réputation morale de l'accusé dans la collectivité. Pour ce qui est du poids à accorder à la preuve, il est loisible au juge du procès de conclure que la valeur la preuve de moralité pour ce qui est de la propension est alors diminuée.

En conséquence, le pourvoi est accueilli et les déclarations de culpabilité sont rétablies.

Alan D. Gold, for the appellant.

Kenneth L. Campbell, for the respondent.

LE JUGE EN CHEF (oralement au nom de la Cour) -- Le juge Sopinka va prononcer le jugement de la Cour.

LE JUGE SOPINKA -- Le présent pourvoi est formé de plein droit. Le pouvoir d'ordonner un arrêt des procédures pour cause d'abus de procédure ne doit être exercé que dans les cas les plus clairs et lorsqu'il est démontré que la conduite reprochée a violé les principes de justice fondamentale qui sous-tendent le sens collectif du franc-jeu et de la décence. Tel n'est pas le cas ici. Il ne serait pas non plus oppressif ou vexatoire en l'espèce de forcer l'accusé à subir son procès. Le pourvoi est rejeté.

8.10.1993

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

J.G.B.

Alan D. Gold, for the appellant.

v. (23320)

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

Ian R. Smith, for the respondent.

SOPINKA J. (orally for the Court) -- It will not be necessary to hear from you Mr. Smith. The Court is ready to hand down judgment. The judgment will be pronounced by Mr. Justice Iacobucci.

LE JUGE SOPINKA (oralement au nom de la Cour) -- Il ne sera pas nécessaire de vous entendre M^e Smith. La Cour est prête à rendre jugement, lequel sera prononcé par le juge Iacobucci.

IACOBUCCI J. -- This appeal comes to us as of right. Pursuant to the principles in *R. v. Askov*, [1990] 2 S.C.R. 1199, and *R. v. Morin*, [1992] 1 S.C.R. 771, there was no unreasonable delay in this case so as to justify the imposition of a stay under the provisions of s. 11(b) of the *Canadian Charter of Rights and Freedoms*. Applying the relevant factors, we are of the view that the delay from the time of the charge to the date set for trial was not unreasonable.

LE JUGE IACOBUCCI -- Ce pourvoi est formé de plein droit devant notre Cour. Selon les principes établis dans *R. c. Askov*, [1990] 2 R.C.S. 1199, et *R. c. Morin*, [1992] 1 R.C.S. 771, il n'y a pas eu en l'espèce de délai déraisonnable au point de justifier l'imposition d'un arrêt des procédures en vertu de l'al. 11b) de la *Charte canadienne des droits et libertés*. Si l'on applique les facteurs pertinents, nous sommes d'avis que le délai intervenu du moment de l'accusation à la date fixée pour le procès n'était pas déraisonnable.

Accordingly, the appeal is dismissed.

En conséquence, le pourvoi est rejeté.

12.10.1993

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

Scott Jones

Richard P. Anderson, Q.C. and G.D. McKinnon, for the appellant.

v. (23157)

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

Alexander Budlovsky, for the respondent.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Canadian Charter of Rights and Freedoms - Criminal law - Sentencing - During course of an assessment of mental state, prior to preliminary inquiry, investigation undertaken about his potential to re-offend - Appellant aware of his right to counsel and that information could be used against him in Court - Following plea of guilty, inquiry undertaken and Appellant found to be dangerous offender - Was his right to silence infringed when he was not told by mental health professionals that the examinations might lead to dangerous offender proceedings - Were Appellant's s. 10(b) rights infringed when he was not advised of his right to counsel with respect to these examinations insofar as they related to his ongoing custody.

Nature de la cause:

Charte canadienne des droits et libertés - Droit criminel - Détermination de la peine - Au cours d'une évaluation de l'état mental, avant l'enquête préliminaire, une enquête a été entreprise sur la possibilité de récidive - L'appelant était au courant de son droit à l'assistance d'un avocat et que ces renseignements pouvaient être utilisés contre lui devant le tribunal - Par suite d'un plaidoyer de culpabilité, une enquête a été menée et l'appelant a été désigné délinquant dangereux - Y a-t-il eu violation de son droit au silence lorsque les professionnels de la santé mentale ont omis de lui dire que les examens pouvaient entraîner des procédures relatives aux délinquants dangereux? - Y a-t-il eu violation des droits que l'al. 10b) confère à l'appelant lorsqu'on a omis de l'aviser de son droit à l'assistance d'un avocat relativement à ces examens, dans la mesure où ils se rapportaient à sa détention?

12.10.1993

CORAM: The Chief Justice Lamer and La Forest, L'Heureux-Dubé, Sopinka, Gonthier, Cory and McLachlin JJ.

Graham Gaetz

v. (23369)

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

Douglas A. Caldwell, Q.C. and Peter Rogers, for the appellant.

John C. Pearson, for the respondent.

THE CHIEF JUSTICE (orally) -- We are ready to hand down judgment now.

Justices La Forest, Gonthier, Cory and McLachlin, in substantial agreement with Mr. Justice Chipman of the Court of Appeal, would dismiss. The Chief Justice, Justices L'Heureux-Dubé and Sopinka concurring, would render judgment as follows:

I am satisfied that the Crown has *prima facie* established that by deceit, that is the continuation of the payments, the appellant obtained an extension of credit in excess of \$1,000.00. But that is not the way in which the indictment was framed.

LE JUGE EN CHEF (oralement) -- Nous sommes prêts à rendre jugement sur-le-champ.

Les juges La Forest, Gonthier, Cory et McLachlin, qui partagent, pour l'essentiel, l'opinion du juge Chipman de la Cour d'appel, rejettent le pourvoi. Le Juge en chef, à l'opinion duquel souscrivent les juges L'Heureux-Dubé et Sopinka, rendrait le jugement suivant:

Je suis convaincu que le ministère public a fait la preuve *prima facie* que l'appelant a, par supercherie, c.-à-d. la continuation des paiements, obtenu une hausse de crédit de plus de 1 000 \$. Mais telle n'est pas la façon dont l'acte d'accusation a été formulé.

Il reste à déterminer si l'accusé a été induit en erreur

The remaining question is whether the accused was misled in his defense. The onus to satisfy us of this is upon the Crown, who chose not to amend the indictment. I cannot say the Crown has.

Therefore, the Chief Justice, Justices L'Heureux-Dubé and Sopinka would allow the appeal and order a new trial on the amended indictment.

The appeal is dismissed, the Chief Justice, L'Heureux-Dubé and Sopinka JJ. dissenting.

dans sa défense. L'obligation de nous en convaincre incombe au ministère public, qui a choisi de ne pas modifier l'acte d'accusation. Je ne puis dire qu'il l'a fait.

En conséquence, le Juge en chef et les juges L'Heureux-Dubé et Sopinka accueilleraient le pourvoi et ordonneraient la tenue d'un nouveau procès selon l'acte d'accusation modifié.

Le pourvoi est rejeté, le Juge en chef et les juges L'Heureux-Dubé et Sopinka étant dissidents.

13.10.1993

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

The Grand Council of the Crees (of Quebec), et al.

v. (22705)

Hydro-Québec et al. (F.C.A.)(Qué.)

Robert Mainville, Peter W. Hutchins et Johanne Mainville, pour les appelants.

Gregory J. McDade and Stewart A.G. Elgie, for the interveners Sierra Legal Defence Fund et al.

Pierre Bienvenu, Jean G. Bertrand et Bernard Roy, pour l'intimé Hydro-Québec.

Pierre Lachance et Jean Robitaille, pour l'intimé le procureur général du Québec.

Jean-Marc Aubry, c.r. et René LeBlanc, pour l'intimé le procureur général du Canada.

Judith B. Hanebury, for the respondent the National Energy Board.

EN DÉLIBÉRÉ / RESERVED

Nature of the case:

Environmental law - Energy - Administrative law - Evidence - Statutes - Interpretation.

Nature de la cause:

Droit de l'environnement - Énergie - Droit administratif - Preuve - Lois - Interprétation.

14.10.1993

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

John O. Miron et al.

v. (22744)

Richard Trudel et al. (Ont.)

Giovanna Roccamo and Mark Edwards, for the appellant.

Rebecca Regenstreif, for the intervener the Attorney General for Ontario.

Catherine L. Jones and R. Cooligan, for the respondent.

Graham R. Garton, Q.C., and James Hendry, for the intervener the A.G. of Canada.

Madeleine Aubé, pour l'intervenant le procureur général du Québec.

Shawn Greenberg, for the intervener the A.G. of Manitoba.

ADJOURNED TO THE NEXT TERM / AJOURNÉ À LA PROCHAINE SESSION

Nature of the case:

Canadian Charter of Rights and Freedoms - Statutes - Insurance - Interpretation - Motor vehicles - Insurance Act, R.S.O. 1980, c. 218 - Definition of spouse - Whether common law spouse covered by uninsured motorist coverage and accident benefits for loss of income - Whether the Court of Appeal erred in finding that the provisions of the Ontario Standard Auto Policy with respect to uninsured coverage and accident benefits for loss of income as prescribed by Part VI of the Insurance Act do not contravene s. 15 of the Charter by limiting benefits of the law to married spouses - Whether the Court of Appeal erred in finding that a court of first instance is bound by stare decisis to follow an appellate court's decision thus prevailing over the requirements of the Constitution as set out in s. 52(1) of the Charter, contrary to the reasoning of the Supreme Court of Canada in R.W.D.S.U. v. Dolphin Delivery Ltd., [1986] 2 S.C.R. 573 and R. v. Swain, [1991] 1 S.C.R. 933.

Nature de la cause:

Charte canadienne des droits et libertés – Lois – Assurances – Interprétation – Véhicules à moteur – Loi sur les assurances, S.R.O. 1980, ch. 218 – Définition de conjoint – Le conjoint de fait est-il couvert par la garantie non-assurance et l'indemnité d'accident pour perte de revenu? – La Cour d'appel a-t-elle commis une erreur en concluant que les dispositions de la police type d'assurance-automobile relatives à la garantie non-assurance et à l'indemnité d'accident pour perte de revenu, prescrites à la partie VI de la Loi sur les assurances ne contreviennent pas à l'art. 15 de la Charte en limitant le bénéfice de la loi aux conjoints mariés? – La Cour d'appel a-t-elle commis une erreur en concluant qu'une cour de première instance est tenue, vu la règle stare decisis, de suivre une décision d'un tribunal d'appel écartant ainsi les exigences de la Constitution énoncées au par. 52(1) de la Charte, contrairement au raisonnement de la Cour suprême du Canada dans les arrêts SDGMR c. Dolphin Delivery Ltd., [1986] 2 R.C.S. 573, et R. c. Swain, [1991] 1 R.C.S. 933?

APPEALS HEARD SINCE LAST ISSUE AND
DISPOSITION

APPELS ENTENDUS DEPUIS LA DERNIÈRE
PARUTION ET RÉSULTAT

WEEKLY AGENDA

**ORDRE DU JOUR DE LA
SEMAINE**

AGENDA for the week beginning October 18, 1993.

ORDRE DU JOUR pour la semaine commençant le 18 octobre 1993.

<u>Date of Hearing/ Date d'audition</u>	<u>NO.</u>	<u>Case Number and Name/ Numéro et nom de la cause</u>
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The Court is not sitting this week

La Cour ne siège pas cette semaine

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.

**DEADLINES: MOTIONS
BEFORE THE COURT:**

**DÉLAIS: REQUÊTES
DEVANT LA COUR:**

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 : November 1, 1993

Service : October 11, 1993
Filing : October 18, 1993
Respondent : October 25, 1993

Motion day : December 6, 1993

Service : November 15, 1993
Filing : November 22, 1993
Respondent : November 29, 1993

BEFORE A JUDGE OR THE REGISTRAR:

Pursuant to Rule 22 of the *Rules of the Supreme Court of Canada*, a motion before a judge or the Registrar must be filed not later than three clear days before the time of the hearing.

Please call (613) 996-8666 for further information.

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 : 1 novembre 1993

Signification : 11 octobre 1993
Dépot : 18 octobre 1993
Intimé : 25 octobre 1993

Audience du : 6 décembre 1993

Signification : 15 novembre 1993
Dépot : 22 novembre 1993
Intimé : 29 novembre 1993

DEVANT UN JUGE OU LE REGISTRAIRE:

Conformément à l'article 22 des *Règles de la Cour suprême du Canada*, une requête présentée devant un juge ou le registraire doit être déposée au moins trois jours francs avant la date d'audition.

Pour de plus amples renseignements, veuillez appeler au (613) 996-8666.

DEADLINES: APPEALS

The next session of the Supreme Court of Canada commences on October 4, 1993.

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:

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

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

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

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

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

The Registrar shall enter on a list all appeals inscribed for hearing at the October 1993 Session on August 4, 1993.

DÉLAIS: APPELS

La prochaine session de la Cour suprême du Canada débute le 4 octobre 1993.

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

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

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

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

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.

Le 4 août 1993, le registraire met au rôle de la session d'octobre 1993 tous les appels inscrits pour audition.