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:: NOTICES ::

Society Offices – Holiday hours

The Nova Scotia Barristers' Society would like to wish everyone a healthy and happy holiday season, and all the best in the new year.

The Society Offices will be closed December 24, 25 and 26, 2008, and January 1, 2009.

NS Court of Appeal Justice joins Supreme Court of Canada

The Honourable Justice Thomas A. Cromwell of the Nova Scotia Court of Appeal has officially been appointed to the Supreme Court of Canada.

"Not only is Justice Cromwell one of Canada's most respected jurists, his appointment will also restore regional balance to the Court which now, once again, has an Atlantic Canadian representative," Prime Minister Stephen Harper said in his December 22 announcement.

For more details, visit the government's site at <http://www.pm.gc.ca/eng/media.asp?category=1&id=2362>

Register soon for 2009 Testimonial Dinner

Registrations are still open for the **2009 Testimonial Dinner**, Friday, January 9, 2009 at the Halifax Marriott Harbourfront Hotel. The Society's Executive Committee cordially invites members and guests to attend in honour of:

- The Honourable Justice Duncan R. Beveridge
- The Honourable Justice Kenneth C. Haley
- The Honourable Judge Frank P. Hoskins
- The Honourable Judge Theodore K. Tax
- The Honourable Judge Marci L. Melvin

For more details and to register, visit: http://www.nsbs.org/development.php?events_id=35

Swearing-in ceremony for Justice Elizabeth Jollimore

Justice Elizabeth Jollimore's swearing-in ceremony is scheduled for **January 2, 2009 at 3:00 pm** at the Law Courts on Upper Water Street in Halifax. Most recently a litigation partner at Stewart McKelvey in Halifax, she developed an expertise in family law during her 20 years of practice. She was appointed Justice of the Supreme Court of Nova Scotia in late November. All are welcome to attend.

For more details: http://www.courts.ns.ca/news/j_jollimore_appointment.htm

Queen's Counsel appointments

The Society would like to congratulate the following 14 Nova Scotia lawyers on their Queen's Counsel designations, announced December 22, 2008 by Justice Minister and Attorney General Cecil Clarke:

- Michael Power, Bridgewater
- Steven Zatzman, Dartmouth
- A. Wayne MacKay, Halifax
- Matthew Napier, Dartmouth
- Kathryn Elaine Pentz, Sydney
- Harvey McPhee, Sydney
- Peter Rogers, Halifax
- Craig Botterill, Halifax
- Elizabeth Van Den Eynden, New Glasgow
- Maurice Chiasson, Halifax
- John Graham, Halifax
- Joshua Arnold, Halifax
- Annette Boucher, Halifax
- James Chipman, Halifax

For more details: <http://www.gov.ns.ca/news/details.asp?id=20081222011>

In Memoriam

The Society wishes to advise members of the death of a friend, colleague and Life Member of the Society. We extend our condolences to his family at this time of their grief.

- Reginald Dickey Evans, Halifax - died peacefully at home on December 15, 2008 at age 94
-

Common Ground newsletter from Nova Scotia Land and Property Programs

The stockings may not yet be hung by the chimney with care, but the December *Common Ground* is bulging with goodies for readers everywhere. Read about Minister Muir's recognition of land surveyors; updates to the E-Land Registry and Crown lands; recent recipients of the Minister's Award of Excellence; responsibilities of clients and users of Property Online; and other tidbits tucked inside.

Visit: <http://www.gov.ns.ca/snsmr/property/registry/news> and click on Common Ground - December 2008 for the newsletter.

Frances Fish Awards

The Nova Scotia Association of Women and the Law will present the 2009 Frances Fish Women Lawyers' Achievement Awards, at a ceremony and dinner in October.

Named for the first female graduate of Dalhousie Law School, the awards honour those who have shown dedication to the advancement of women in and through the legal profession.

Volunteers are needed for the organizing committee. Anyone interested in participating is asked to contact Janet Stevenson at 482-7016 or jstevenson@wickwireholm.com.

Society clarifying duties to report, supervise

The Society is in the process of strengthening several key rules governing the conduct of lawyers. Comprehensive new guidelines are recommended for the [Duty to Report](#) and [Duty to Supervise](#), as outlined in Chapters 18 and 19 of the Legal Ethics Handbook. If adopted, they will better serve the profession and the public by providing much clearer guidance for both reportable misconduct and supervision of non-legal staff.

Council discussed the proposals at length on November 21, requesting input from the membership by **January 15, 2009**. In drafting the new provisions, staff conducted a thorough investigation of similar standards across Canada, the U.S. and internationally, all of which were considered by the Ethics and Professional Responsibility Committee in developing these proposed changes.

Please review the full details of each proposal online. Comments may be directed to Darrel Pink, Executive Director, at dpink@nsbs.org, or Victoria Rees, Director of Professional Responsibility, at vrees@nsbs.org, until January 15, 2009.

Size of Council/Council Composition

A Task Force has been appointed to review a variety of issues respecting the size, composition and manner of election of Council. The group includes Del Atwood, Rene Gallant, Donald Harding, Marjorie Hickey, Derek Land, John Rogers, Bruce Russell and Robert Sampson.

Input from all members is welcomed. The Task Force is scheduled to provide an interim report to Council on January 23, 2009, so feedback prior to that date would be appreciated. Background information and the questions being considered by the Task Force are found in the [Terms of Reference](#).

Your feedback should be directed to the Task Force Chair, Marjorie Hickey, at marjorie.hickey@mcinnescooper.com.

Seeking nominations for Second Vice-President

The nominating committee will shortly begin its work to prepare for nominations for the Second Vice-President. Members of the Bar are encouraged to contact members of the Nominating Committee to provide suggestions for potential candidates by email.

Catherine S. Walker, Q.C., Chair (cwalker@walkerlaw.ca)
Philip J. Star, Q.C. (pnslaw_phil@yahoo.ca)
Joel E. Pink, Q.C. (jepink@garsonpink.ca)
J. Ronald Creighton, Q.C. (rcreighton@pattersonlaw.ca)
Marjorie A. Hickey, Q.C. (mhickey@mcinnescooper.com)
George P. Ash (gash@boyneclarke.ns.ca)
Moka Case (mokacase@eastlink.ca)
David W. McNairn (dmcnairn@hickslemoine.ca)
William F. Meehan (wmeehan@hotmail.com)

The Committee's nomination will be posted on the NSBS website by no later than February 14, 2009 following which members may submit nominations. The deadline for receipt of additional nominations is March 17, 2009. Nominations should be sent to the attention of the Executive Director, Darrel Pink.

UPDATE: Client Identification and Verification Regulations

The Society's new [Client Identification and Verification Regulations](#) are fully available online, along with a sample [Verification Agreement](#).

In effect since November 3, the new rules outline the steps lawyers must take, and the records they must keep, to verify client identity. They were developed from the Federation of Law Societies of Canada's new Client Identification Rule.

All inquiries regarding the new rules may be directed to:
Deborah Gillis, Risk and Practice Management Advisor
Lawyers' Insurance Association of Nova Scotia
Tel. (902) 423-1300, Ext. 345
Email: dgillis@lians.ca

New football tournament seeks teams of lawyers

Lawyers around the world are invited to compete in Americalawyers, the America Football Cup for Teams of Bar Associations. This new football tournament will take place every two years, starting with this summer's inaugural event in **Rio de Janeiro, Brazil**, from **June 10 – 14, 2009**.

Teams require 13 – 25 players, and are required to register in the name of their bar or of their grouping of bars. The deadline for registration is February 28, 2009. For details, see <http://americalawyers-footballcup.com/>.

NOTICE regarding treaty-protected property

The Canada Revenue Agency would like to provide the legal and accounting communities with additional information concerning a budget change that will take effect on January 1, 2009. New rules will apply when treaty-protected property is purchased from a non-resident.

For details, please refer to the new information sheet posted at www.cra-arc.gc.ca or contact the International Tax Services Office at 1-800-267-5177.

Non-Resident Advisory Services Section
Medium Business Audit Division

Small and Medium Enterprises Directorate
Canada Revenue Agency

Version française

La présente a pour but de vous fournir des renseignements supplémentaires concernant une modification du budget qui entrera en vigueur le 1er janvier 2009. De nouvelles règles s'appliqueront lorsqu'un bien protégé par traité est acheté d'un non-résident.

Afin d'accroître la sensibilisation à l'égard de la question, nous avons rédigé une feuille de renseignements visant à informer les collectivités comptable et juridique des nouvelles règles. Nous vous demandons de nous aider en distribuant la feuille de renseignements ci-jointe à vos membres et associés.

Toutefois si vous avez d'autres questions ou préoccupations, veuillez visiter notre site Web à l'adresse suivante : <http://www.cra-arc.gc.ca>; ou communiquer avec le Bureau international des services fiscaux au 1-800-267-5177.

Section des services de conseils relatifs aux non-résidents
Division de la vérification des moyennes entreprises

Direction des petites et moyennes entreprises
Agence du revenu du Canada

NOTICE from Federal Court regarding E-filing Expansion / Expansion du dépôt électronique

Please find a memorandum from Mr. Guenette concerning the above-noted matter, dated November 28, 2008, posted at the following link:

http://cas-ncr-nter03.cas-satj.gc.ca/portal/page/portal/CAS/circulars-circulaires_eng/8-2008_eng

Veillez trouver une note de service de M. Guenette en date du 28 novembre 2008 concernant le sujet mentionné en rubrique affichée sur l'Internet à l'adresse suivante :

http://cas-ncr-nter03.cas-satj.gc.ca/portal/page/portal/SATJ/circulars-circulaires_fra/8-2008_fra

NOTICE from Federal Court regarding Direction re. Rule 127(1) concerning service of a notice

Please find a memorandum from Mr. Guenette concerning the above-noted matter, dated November 28, 2008, posted on Internet at the following link:

http://cas-ncr-nter03.cas-satj.gc.ca/portal/page/portal/CAS/circulars-circulaires_eng/7-2008_eng

Directive concernant la règle 127(1) relativement à la signification d'un avis

Veillez trouver une note de service de M. Guenette en date du 28 novembre 2008 concernant le sujet mentionné en rubrique affichée sur l'Internet à l'adresse suivante :

http://cas-ncr-nter03.cas-satj.gc.ca/portal/page/portal/SATJ/circulars-circulaires_fra/7-2008_fra

NOTICE: Assistance requested in locating missing will in Sydney/Glace Bay area

Lawyers with any information regarding the last will and testament of Emma Theresa Currie are asked to please contact her niece Helen Currie in Dartmouth as soon as possible. Executors are unable to locate a copy of her will, and hope that a lawyer in the Sydney/Glace Bay area may have a copy on file.

Ms. Currie lived in MacKay's Corner, Glace Bay, all her life. She was an elementary school teacher and principal of MacKay Corner Memorial School. If you can provide any details, please contact Helen Currie at 902.469.1319 or hcurrie@hotmail.com.

NOTICE: Property Online tips for MacBook users

Anthony J. Morley, QC, of Amherst, would like to alert fellow lawyers to solutions for using Property Online with MacBooks. If anyone is having problems migrating titles with the Mac due to the requirement for Internet Explorer, Mr. Morley's son Jake can provide advice. The recent Dalhousie Computer Science graduate can be reached at jake.morley@gmail.com, and invites your inquiries.

Notice regarding Consolidated Judgment Index Omission Registry of Deeds - Halifax County

It has come to our attention that the Consolidated Judgment Index for August 15th, 2008 did not include the Judgment Debtor Marina M. Crook. This omission was addressed and now appears in the index as of Oct 23, 2008.

Any questions concerning this omission should be directed to the Halifax Land Registration Office.

Kim MacKay
Regional Registrar, Halifax Land Registry

Notice regarding Grantor / Grantee Index Omission Land Registration Office - Cape Breton County

It has come to our attention that an Expropriation document against Angus McMullen, John Devison, Gitta MacLeod, Airway Beagle Club, Seaside Cable Ltd., Universal Negro Improvement, Elcomac Realities Ltd., Nova Scotia Power Commission & Municipality of the County of Cape Breton by the Municipality of the County of Cape Breton recorded May 22, 1981 in Book 1275 Page 92 had never been in our Grantor/Grantee Index although it was indexed in the Planlog. The document now appears in the Grantor/Grantee Index. The error was discovered Oct 27/08 & fixed Oct 28/08.

Any questions concerning this omission should be directed to the Sydney Land Registration Office.

John MacLeod, Acting Registrar of Land Titles – Sydney
Sydney Land Registration Office
563-3539

You Can Make a Difference...

The Province of Nova Scotia is accepting applications from individuals interested in being appointed to serve on its various Adjudicative and Non Adjudicative Agencies, Boards and Commissions, and Tribunals. To learn more, visit www.gov.ns.ca/exec_council or call 1-902-424-4877 in HRM (Toll-free: 1-800-206-6844). The province is committed to affirmative action to promote equitable participation of aboriginal persons, women, persons with disabilities and members of racially visible groups where they are under-represented.

Notice regarding Mortgage Discharges

The Canadian Bankers Association has provided the Federation of Law Societies with [HUa list of bank officialsUH](#) who may be contacted in the event that mortgage discharges are not provided within 90 days of their request. The provision of the list on a national basis follows a successful pilot project at the Law Society of British Columbia, instituted as a result of discussions between the Federation and the CBA. We are advised that the list will be updated in early 2009 if necessary.

Download PDF list: <http://lians.ca/MortgageDischargeEscalationContactList.pdf>

Challenge to all law firms to 'Feed Nova Scotia'

Atlantica Law Group challenges all law firms to match or better its \$500 dollar donation to Feed Nova Scotia to help in the urgent cry for help to feed over 40,000 people in Nova Scotia each month. Your donation will make a real difference to someone who would otherwise go without a meal tonight. All donations are greatly appreciated.

www.feedbacknovascotia.ca

New printable format member directory now available

Members now have access to a complete directory of all Practising Members and Articled Clerks in a printable format. The printable directory will be updated quarterly, in November, February, May and August. Use and distribution of this directory is for professional purposes only and members are reminded that the on-line directory has the most up-to-date information on our members. The disclaimer on the printable directory is reproduced below.

NOTE: This directory is provided as a service exclusively to our membership who may wish to contact individual lawyers on a professional basis. The information is not to be used for any commercial, marketing or fundraising purposes. This document may be distributed to support staff associated with our membership for the purposes outlined above. Any other reproduction or redistribution of this document, in whole or in part, without the consent of the NSBS is prohibited.

The information contained in this document is current as of the date of creation. For the most up to date information on our membership, please consult our online directory at www.nsbs.org.

Members can access the directory by logging into the "Member Area Login," selecting "Communities" from the top bar, and then by selecting the "Printable Directory." You will need the username and password that you used to complete your Annual Members Report.

Land Registration Notice – Cape Breton County

It has come to our attention that a Certificate of Discharge of a Tax Sale was expired in error. The document in question was document number 83187139, the Grantors: Gladys Nash and Cape Breton Regional Municipality, Grantees: Virginia Clarke and Ellen Gillis. The error occurred on Oct 5, 2005; discovered error on August 12, 2008 and correction made August 13, 2008. Any questions concerning this omission should be directed to the Cape Breton County Land Registration Office.

Additional Resources – Real Estate Standard 3.11

Please note that additional resources have been added to Real Estate Standard 3.11, located in the Practice Standards section of the LIANS site at www.lians.ca/Standards/stand311.html.

Bookmark Professional Responsibility [BEST PRACTICES](#) — an online ethics resource for Nova Scotia lawyers.

[Recent Decisions from Professional Responsibility](#)

[Career postings on the NSBS website](#)

:: CONFERENCES & SEMINARS ::

NSBS CONTINUING PROFESSIONAL DEVELOPMENT UPCOMING COURSES:

HU [Click here to visit the CPD page at NSBS.org](#) U

New Lunch & Law – LRA for Litigators

Wednesday, January 21, 2009 – 12:00 pm to 1:30 pm
NSBS CPD Centre, Suite 408, 1645 Granville

Join Mark Everett for an informative session on the Land Registration Act. If you would like to learn more about the process of migration and how the LRA has changed some common law principles such as easements, this session is for you. Teleconference/webinar option is available.

Registration and more information: http://www.nsbs.org/development.php?events_id=36

Lunchtime Seminar Series Tickets

\$40 each or 10 for \$300

Location: Continuing Professional Development Centre, 4th Floor, Centennial Building, Suite 408, Halifax, NS

CPD is now offering a booklet of ten seminar tickets for \$300, a discount of \$10 per session! Booklets may be purchased by individuals or firms and are transferable. Tickets may be redeemed for any single seminar offered by CPD that is less than 1.5 hours in length.

OUTSIDE CONFERENCES & SEMINARS

Aboriginal Law and the Duty to Consult Aboriginal Peoples *– a seminar from the Nova Scotia Office of Aboriginal Affairs*

Wednesday, February 4, 2009
The Westin Nova Scotian Hotel, Halifax

Keynote speaker: Thomas Isaac Partner, McCarthy Tétrault LLP
Registration deadline: Friday, January 23, 2008

This learning seminar is critically important for those who need to gain a better understanding of the ever-changing legal landscape of Aboriginal law; to understand their role in Aboriginal consultation; to assess and mitigate risks in project development; to work collaboratively with governments; and to negotiate agreements with Aboriginal groups. Essential learning for corporate counsel, industry and government!

For more details and to register <http://www.gov.ns.ca/abor/resources/learningseminar/registration>

For more information, please contact Beata Dera at (902) 424-2590 or at derab@gov.ns.ca.

F.B. Wickwire Memorial Lecture Series: January 29, 2009

The Society is pleased to announce the 18th annual F.B. Wickwire Memorial Lecture Series in Professional Responsibility and Legal Ethics.

Allan Hutchinson of Osgoode Hall School of Law will deliver the lecture, titled “‘Doing Wrong’ To Do Right: Legal Ethics on the Margin.” Presented in cooperation with Dalhousie Law School, the event takes place on Thursday, January 29, 2009, at 4:30 p.m.

Time: Thursday, January 29, 2009, 4:30 pm

Place: Dalhousie Law School, Room 104 of the Weldon Law Building

Speaker: Allan Hutchinson, Distinguished Research Professor, Osgoode Hall School of Law, York University

Lecture: “‘Doing Wrong’ To Do Right: Legal Ethics on the Margin.”

[PDF Poster](#)

ABA TECSHOW® 2009 – Register early for discount

Join the ABA Law Practice Management section, as it presents **ABA TECSHOW® 2009 from April 2-4, 2009** at the **Hilton Chicago hotel**, and the magnificent Windy City! Take advantage of the world's premier legal technology conference and expo. **Register before the early-bird deadline of February 28, 2009** and **save \$350** from the standard rate as a member of the Lawyers' Insurance Association of Nova Scotia.

Now in its 23rd year, ABA TECSHOW® offers registrants more than 60 legal technology educational sessions in 16 exciting tracks, including an E-Discovery Boot Camp, Mac Track, Solo/Small firm and Large Firm tracks, Internet and Finance, to name a few. During the two-day expo, more than 120 technology vendors feature the latest in legal technology products and services. Network with more than 1,500 attendees during the ABA TECHSHOW AFTER DARK – a gala event in the Grand Ballroom with a live band, light fare, drinks and door prizes.

To register, visit the website at www.techshow.com, choose “Event Promoter Registration” and enter the Lawyers' Insurance Association's event promoter code [EP916] where indicated. One-day passes are available for Thursday and Friday; however, the association discount cannot be applied to the one-day registration rate.

APTLA Online Legal Education

The Atlantic Provinces Trial Lawyers Association invites you to enhance your practice through online legal education! Eliminate travel expenses and hear from top trial lawyers from the convenience of your office, home, or hotel room using a desktop computer or laptop. **SeminarWeb Live!** provides real time delivery of papers, presentations, podcasts and video presentations. Participants can ask questions, participate in surveys, and post comments from your computer during the program.

Upcoming programs include:

- Neuropsychological Diagnosis in Mild Traumatic Brain Injury
- Damages in Small Personal Injury Cases
- Preparing Your Client for Deposition in an Employment Discrimination Case
- Why Do Jurors Blame the Victim?
- How to Use Jury Instructions Pre-Trial & to Establish Themes
- The Plaintiff's Technology Toolbox

There is also a broad selection of self-paced online programs, canvassing all areas of a litigation practice.

To learn more about upcoming programs or the list of available self-paced seminars, visit APTLA's SeminarWeb Live! page at www.seminarweblive.com/ap or call support at 800 443 1757. More information about these and APTLA's other legal education events can be found at www.apvla.ca.

Seminar Series, Health Law Institute, Dalhousie University

The Health Law Institute invites you to attend their incredibly popular lunch time series of seminars on topics related to health law and policy. Speakers come from near and far to share with the audience their research and reflections on the latest issues. In turn, the audience consisting of various interested parties, including representatives from law firms, hospitals, government, universities and the general public, enjoys the opportunity to engage in informal discussions with invited scholars and practitioners.

Room 104, Weldon Law Building, 6061 University Ave., Halifax NS

12:10 - 1:30 PM ([Series dates and information available online](#))

Light lunch served at noon in the Faculty Lounge (Rm. 312)

No registration required, no fee.

Call 902-494-6881 or [visit them online](#) for series information.

: : CLASSIFIEDS : :**Office space available on Quinpool Road**

Two offices are available for rent on Quinpool Road in Halifax: one large office measuring approximately 12 by 18 feet, and a second of approximately 10 by 12 feet, which would be suitable for an assistant.

The cost would vary based upon whether you are interested in only the larger office or both offices. The telephone system, facsimile, internet and central printer and copier are also available should you wish to share those costs. There is sufficient room in the two offices to operate a stand-alone practice.

Our office currently has two sole practitioners and an administrative assistant. Contact Fergus Ford at 454-0921 or fford@ns.sympatico.ca.

: : NEW FROM LIBRARY & INFORMATION SERVICES: :

New NS Civil Procedure Rules now available in WestlaweCarswell's *LawSource*

The Civil Procedure Rules coming into force January 1, 2009, have now been added to WestlaweCarswell's *LawSource*. Currently, if you search for a Nova Scotia Rule, your search will retrieve results from the new Rules as well as those currently in force, in that order. The new Rules are differentiated from those currently in force by the titles *Nova Scotia Civil Procedure Rules [Proposed]* and *N.S. Civ. Pro. Rules 2009*.

The new Civil Procedure Rules are not yet included in the Rules Concordance. However, the aim is to update the Rules Concordance by January 1, 2009.

The Nova Scotia Barristers' Society Library & Information Services provides *LawSource*, a comprehensive online legal research product, in county barristers' libraries throughout the province. The Society's online *Annotated Nova Scotia Civil Procedure Rules*, available at <http://nslaw.nsbs.org>, provides members and practitioners with a full-text, searchable, freely available version of the new Civil Procedure Rules.

Need help searching? Please contact Library & Information Services at 902.425.2665 (BOOK) or toll-free for members at 1.866.219.1202.

Laudable Legal Links

Library & Information Services assess and select publicly-available, law-related web sites for inclusion in our [Legal Links](#) database. Search or browse this collection of vetted web resources by clicking on [Legal Links](#) on the [Library Search](#) page of the Society's website.

Recently added or updated web sites:

CBA National Class Action Database

<http://www.cba.org/ClassActions/main/gate/index>

A project initiated by the Civil Litigation Section of the Canadian Bar Association, the National Class Action Database provides access to court documents regarding class actions underway across Canada and information about their subject matter and status. While various jurisdictions have issued practice directions requiring counsel to submit documents, the database is primarily a voluntary initiative and does not provide a comprehensive listing. Browse contents by year back to 1996, or keyword search, and limit by year and/or jurisdiction.

Ontario e-Laws

<http://www.e-laws.gov.on.ca/index.html>

The e-Laws web site provides access to the consolidated laws of Ontario, as well as statutes as enacted and regulations as filed. The site is usually updated within two business days of a change in the law. Access a specific statute or a regulation, or use the advanced search features. For Bills, use the link to the Legislative Assembly's web site. As of November 30, 2008, copies of source laws and consolidated laws accessed from e-Laws are official copies of the law, unless accompanied by a disclaimer. See the FAQ on the site for more information.

New books in the library

ADMINISTRATION OF JUSTICE

TECHNOLOGY, PRIVACY AND JUSTICE TECHNOLOGIES, VIE PRIVÉE ET JUSTICE / Austin, Lisa; Cockfield, Arthur J; Molinari, Patrick A; Canadian Institute for the Administration of Justice -- Toronto: Canadian Institute for the Administration of Justice, 2006. **[KB 85 C212 2006]**

ADMINISTRATIVE LAW

CANADIAN ADMINISTRATIVE LAW / Regimbald, Guy -- Markham, Ont. LexisNexis Butterworths, 2008. **[KB 32 R335 2008]**

ADVOCACY

DEMONSTRATIVE ADVOCACY : UNDERSTANDING AND CONSTRAINING PARTIALITY IN ADJUDICATION / Fancy, Hassan A -- Markham, Ont. LexisNexis Butterworths, 2008. **[KB 269 F199 2008]**

BANKRUPTCY

THE 2009 ANNOTATED BANKRUPTCY AND INSOLVENCY ACT : INCLUDING GENERAL RULES UNDER THE ACT, ORDERLY PAYMENT OF DEBTS REGULATIONS, TARIFFS, COMPANIES' CREDITORS ARRANGEMENT ACT, FARM DEBT MEDIATION ACT, WAGE EARNER PROTECTION PROGRAM ACT, POLICY STATEMENTS THE BANKRUPTCY AND INSOLVENCY ACT 2009 ANNOTATED / Houlden, Lloyd W; Morawetz, Geoffrey B; Sarra, Janis P -- Toronto: Thomson Carswell, 2008. **[KB 113 H838 2009]**

BANKS AND BANKING

FINANCIAL INSTITUTIONS : THE REGULATORY FRAMEWORK / Nicholls, Christopher C -- Markham, Ont. LexisNexis Butterworths, 2008. **[KB 117 N613 2008]**

LAW OF BANKING AND PAYMENT IN CANADA / Crawford, Bradley -- Aurora, Ont. Canada Law Book, 2008. **[KB 117 C899 2008]**

BUSINESS ENTERPRISES

ANATOMY OF A BUSINESS PLAN : THE STEP-BY-STEP GUIDE TO BUILDING A BUSINESS AND SECURING YOUR COMPANY'S FUTURE / Pinson, Linda -- 7th ed. -- Tustin, Cal. Out of Your Mind...and Into the Marketplace, 2008. **[KB 267 P658 2008]**

CAPITAL PUNISHMENT

A HISTORY OF HANGINGS IN NOVA SCOTIA / Foster, Deanna -- East Lawrencetown, N.S. Pottersfield Press, 2007. **[KB 20 CAN F754 2007]**

COMMUNICATION

THE TRUSTED ADVISOR / Maister, David H; Green, Charles H; Galford, Robert M -- New York: Free Press, 2000. **[K 11.S1 M231 2000]**

YOU JUST DON'T UNDERSTAND : WOMEN AND MEN IN CONVERSATION / Tannen, Deborah -- New York: Harper, 2007. **[KB 11.S1 T166 2007]**

CRIMINAL PROCEDURE

ARCHBOLD : CRIMINAL PLEADING, EVIDENCE AND PRACTICE / Richardson, P. J -- 57th ed. -- London: Sweet & Maxwell, 2009. **[KB 92 A669 2009]**

DAMAGES

CANADA QUANTUM DIGEST : THE CIVIL LITIGATOR'S COMPANION / Nemet-Brown, Sheila -- Markham, Ont. Lexis Nexis Butterworths, 2008. **[KB 183.D3 N433 2008]**

ENVIRONMENTAL ASSESSMENT

THE FEDERAL ENVIRONMENTAL ASSESSMENT PROCESS : A GUIDE AND CRITIQUE / Doelle, Meinhard -- Markham, Ont. LexisNexis Butterworths, 2008. **[KB 79.E2 D651 2008]**-----

ENVIRONMENTAL LAW

ENVIRONMENTAL DUE DILIGENCE : ISSUES IN REAL ESTATE LAW / Strum, Bruce; Nova Scotia Barristers' Society. Continuing Professional Development -- Halifax, N.S. The Society, 2008. **[KB 79.E2 N935 2008]**-----

ENVIRONMENTAL LAW / Benidickson, Jamie -- 3d ed. -- Toronto: Irwin Law, 2008. **[KB 79.E2 B467 2008]**-----

EVIDENCE

ELECTRONIC EVIDENCE : DISCLOSURE, DISCOVERY & ADMISSIBILITY / Mason, Stephen -- Markham, Ont. LexisNexis Butterworths, 2007. **[KB 192 M412 2007]**-----

FEES

WINNING ALTERNATIVES TO THE BILLABLE HOUR : STRATEGIES THAT WORK / Robertson, Mark A; Calloway, James A; American Bar Association. Law Practice Management Section -- 3d ed. -- Chicago: ABA, 2008. **[KB 261 A512W 2008]**-----

IMMIGRATION LAW

THE 2009 ANNOTATED IMMIGRATION AND REFUGEE PROTECTION ACT OF CANADA THE IMMIGRATION AND REFUGEE PROTECTION ACT OF CANADA 2009 ANNOTATED / Goslett, Henry M; Caruso, Barbara Jo -- Toronto: Thomson Carswell, 2008. **[KB 24.E57 M361 2008]**-----

INTERNET

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ENFORCEMENT OF JUDGMENTS / Alberta. Law Reform Institute -- Edmonton, Alta. The Institute, 2008. **[KB 199.J85 A333 2008]**-----

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SUCCESSION PLANNING

BUSINESS SUCCESSION GUIDE / Mahaffy, A. Paul -- Toronto: Thomson Carswell, 2008. **[KB 153 M214 2008]**

NORAD Tracks Santa

Anxious to know how close St. Nick is to dropping down your chimney? Follow Santa's Christmas Eve journey around the globe with the help of the North American Aerospace Defense Command (NORAD) on the [NORAD Tracks Santa](#) web site.

NORAD and its predecessor, the Continental Air Defense Command (CONAD), have tracked Santa's Christmas Eve flight since 1955. A misprint in a telephone number for children to call Santa resulted in children calling CONAD's operations hotline. The Director of Operations had his staff check radar for indications of Santa and his reindeer departing the North Pole. As more children called back for updates on Santa's progress, a tradition was begun.

While waiting for the tracking tool to launch sometime on December 24th, browse the [FAQs](#) for answers to such questions as "how can Santa travel the world within 24 hours?" and "has Santa ever crashed into anything?". Visit the [Track Santa in 3D page](#) for information and assistance on tracking Santa's flight in Google Earth.

Enhanced and updated Resource Lists

Library & Information Services (L&IS) staff compile resource lists, which identify and source legislation, case law, digests, texts, forms and precedents, CLE and CPD material, and web sites in the areas of [criminal law](#), [family law](#), [labour and employment law](#), [real property law](#), [elder law](#), and [wills, estates and trusts law](#).

L&IS staff have recently updated the resource lists with texts newly added to the library collection, relevant legislation, current CLE and CPD materials, and new web sites.

In another time-saving enhancement, the resource guides now feature direct links to [CanLII](#), providing quick full-text access to federal and provincial statutes, regulations, and rules, wherever possible.

The resource lists, in printer-friendly PDF format, are linked from the [Guides and Indexes](#) page in the Library section of the Society's web site.

Law News Cumulative Index 2007-2008 now online

The [HU Cumulative Index 2007-2008](#) to the *Nova Scotia Law News* Volume 33 (October 2007 – September 2008) is now available on the Library Guides and Indexes page of the Barristers' Society website.

Missed the *LawSource* training?

Library & Information Services offered training sessions on *LawSource* with Thomson Carswell's Executive Learning Consultant, Sam MacKenzie, in the county libraries in October and November. If you did not have an opportunity to meet with Sam and are interested in receiving training, please contact L&IS and ask that your name be added to the waiting list. Contact L&IS by telephoning toll-free 1-866-219-1202 or 902-425-BOOK (2665), or by sending an e-mail to nsbslib@nsbs.org.

Online Nova Scotia Annotated Civil Procedure Rules Amendments

Amendments to correct punctuation, syntax and other minor errors have been made to the Civil Procedure Rules coming into force January 1, 2009.

- Amendments to Rule 90 were made October 24, 2008
- Additional amendments to Rule 90 and amendments to Rule 91 were made October 27, 2008
- Amendments to Rules 4, 5, 7, 18, 29, 34, 36, 39, 51, 53, 54, 65, 70, 71, 78, 79, and 94 were made October 31, 2008

The text of the online Nova Scotia Annotated Civil Procedure Rules, available at <http://nslaw.nsbs.org>, has been updated to include these amendments. **Please note that the PDF versions of the Rules, in whole and part, have not yet been updated with these amendments.**

To obtain copies of the amendments as issued by the Courts, please contact Library & Information Services at 902.425.2665 (BOOK) or toll-free for members at 1.866.219.1202 or email us at nsbslib@nsbs.org.

Toll-Free Telephone Number

A toll-free telephone number is available for members to use when calling Library & Information Services at the Nova Scotia Barristers' Society. The toll-free telephone number is **1-866-219-1202**. For all reference and research requests, members have the option of contacting Library & Information Services by telephone at 1-866-219-1202 or 902-425-BOOK (2665), by fax at 902-422-1697, or by e-mail at nsbslib@nsbs.org.



:: NEW DECISIONS ::

Library & Information Services - Keeping you informed

NEW DECISIONS for the week ending December 19, 2008

ADMINISTRATIVE LAW - Freedom of information - Workers' Compensation Board *Halifax Herald Ltd. v. Nova Scotia (Workers' Compensation Board) et al.*, No. 297753(A), Warner, J., December 8, 2008. 2008 NSSC 369; **S583/28****Halifax Herald Ltd. v. Nova Scotia (Workers' Compensation Board) et al.**

[Link to printable version of decision](#)

ADMINISTRATIVE LAW - Standard of review - reasonableness *Oakland/Indian Point Residents Association v. Seaview Properties Ltd.*, S.B.W. No. 292852, Coady, J., December 4, 2008. 2008 NSSC 367; **S585/10**

Oakland/Indian Point Residents Association v. Seaview Properties Ltd.

[Link to printable version of decision](#)

ANIMALS - Ownership - of dog *Gardiner-Simpson v. Cross*, Claim No. 301584, Slone, Adjudicator, November 18, 2008. 2008 NSSM 78; **SmCI12/8**

Gardiner-Simpson v. Cross

[Link to printable version of decision](#)

BANKRUPTCY - Discharge - application to annul *Lannigan (Re)*, Court No. B-31358 ; Estate No. 51-123829, Cregan, Registrar in Bankruptcy, December 2, 2008. 2008 NSSC 348; **S583/23**

Lannigan (Re)

[Link to printable version of decision](#)

CIVIL RIGHTS - Right to counsel - application for funded counsel *R. v. Francis et al.*, C. No. 1587995 ; 1587997 ; 1587999 ; 1601505 ; 1601506 ; 1601507 ; 1583685 ; 1583686 ; 1583687 ; 1589148 ; 1589151 ; 1589153 ; 1589155 ; 1589157 ; 1583719 ; 1583720 ; 1583721 ; 1598016 ; 1598017 ; 1598018 ; 1598019 ; 1598020 ; 1598021 ; 1395513 ; 1395515 ; 1395517 ; 1395519 ; 1577062 ; 1577065 ; 1577068 ; 1592280 ; 1592284 ; 1592288 ; 1577064 ; 1577067 ; 1577070 ; 1592281 ; 1592285 ; 1592289, Batiot, J.P.C., April 3, 2007. 2007 NSPC 28; **M18**

R. v. Francis et al.

[Link to printable version of decision](#)

COMPANY LAW - Shareholders loans - repayment *Boudreau v. Fitzgerald et al.*, Claim No. 298292, Slone, Adjudicator, November 18, 2008. 2008 NSSM 77; **SmCI12/7**

Boudreau v. Fitzgerald et al.

[Link to printable version of decision](#)

CONTRACTS - Walk away protection insurance - claim against insured denied *VFC Inc. v. Baillie*, S.C.C.H. No. 301688, Richardson, Adjudicator, December 4, 2008. 2008 NSSM 75; **SmCI12/5**

VFC Inc. v. Baillie

[Link to printable version of decision](#)

CREDITOR AND DEBTOR - Resulting trust - use of illegal funds for legal transaction *Hurley v. Power et al.*, SN. No. 225235, Edwards, J., December 15, 2008. 2008 NSSC 363; **S585/9**

Hurley v. Power et al.

[Link to printable version of decision](#)

CREDITOR AND DEBTOR - Staffing services - monies owing *Kee Management Solutions Inc. v. White Star Polymer Management & Plastic Recycling Services*, Claim No. 290632, Slone, Adjudicator, September 25, 2008. 2008 NSSM 76; **SmCI12/6**

Kee Management Solutions Inc. v. White Star Polymer Management & Plastic Recycling Services

[Link to printable version of decision](#)

CRIMINAL LAW - Appeals - assault and uttering threats *R. v. Godron*, C.A.C. No. 292656, Roscoe, J.A., December 4, 2008. 2008 NSCA 109; **S580/31**

R. v. Godron

[Link to printable version of decision](#)

CRIMINAL LAW - Appeals - review of sufficiency of information to obtain a warrant *R. v. Simm*, C.A.C. No. 280447, Roscoe, J.A., December 4, 2008 ; December 2, 2008 (orally). 2008 NSCA 112; **S584/2**

R. v. Simm

[Link to printable version of decision](#)

CRIMINAL LAW - Appeals - untagged lobster traps *R. v. Fleet*, Cr. At. No. 293210, MacLellan, J., December 11, 2008 ; October 21, 2008 (orally). 2008 NSSC 373; **S583/31**

R. v. Fleet

[Link to printable version of decision](#)

CRIMINAL LAW - Exclusion of evidence - voir dire *R. v. Kennedy*, No. 1848740 ; 1848741 ; 1848742 ; 1848743 ; 1878744 ; 1878745, Campbell, J.P.C., December 10, 2008. 2008 NSPC 73; **M18**

R. v. Kennedy

[Link to printable version of decision](#)

CRIMINAL LAW - Sentencing - break and enter, assault with a weapon *R. v. P. (O.A.)*, C.R. No. 262112, MacLellan, J., November 19, 2008 ; October 30, 2008 (orally). 2008 NSSC 365; **S583/25**

R. v. P. (O.A.)

[Link to printable version of decision](#)

CRIMINAL LAW - Sentencing - motor vehicle offences *R. v. Graves*, Batiot, J.P.C., July 16, 2008. 2008 NSPC 44; **M18**

R. v. Graves

[Link to printable version of decision](#)

CRIMINAL LAW - Sentencing - robbery and assault *R. v. Reykdal*, C.A.C. No. 293022, Bateman, J.A., December 3, 2008. 2008 NSCA 110; **S580/30**

R. v. Reykdal

[Link to printable version of decision](#)

CRIMINAL LAW - Sentencing - robbery, uttering threats *R. v. DeYoung*, C.R.H. No. 289786, Hood, J., December 2, 2008 ; November 5, 2008 (orally). 2008 NSSC 379; **S585/12**

R. v. DeYoung

[Link to printable version of decision](#)

CRIMINAL LAW - Sentencing - trafficking in cannabis marijuana *R. v. Lounsbury*, No. 1652609 ; 1652610, Beaton, J.P.C., December 4, 2008 ; August 9, 2007 (orally). 2007 NSPC 80; **M18**

R. v. Lounsbury

[Link to printable version of decision](#)

CRIMINAL LAW - Young offenders - conditional supervision *R. v. S. (P.J.)*, C.A.C. No. 296403, Roscoe, J.A., December 5, 2008. 2008 NSCA 111; **S584/1**

R. v. S. (P.J.)

[Link to printable version of decision](#)

DAMAGES - Motor vehicle accident - awarded *Brooks v. Halifax (Regional Municipality)*, Claim No. 302134, Slone, Adjudicator, December 10, 2008. 2008 NSSM 79; **SmCI12/9**

Brooks v. Halifax (Regional Municipality)

[Link to printable version of decision](#)

DAMAGES - Motor vehicle - accident awarded *Cullen v. Cox*, Claim No. 303056, Slone, Adjudicator, December 10, 2008. 2008 NSSM 80; **SmCI12/10**

Cullen v. Cox

[Link to printable version of decision](#)

FAMILY LAW - Access - out of country access granted *Quigley v. Willmore*, No. 1207-003129 ; S.T.D. No. 056344, Williams, J., June 27, 2008. 2008 NSSC 368; **S585/7**

Quigley v. Willmore

[Link to printable version of decision](#)

FAMILY LAW - Child in need of protective services - permanent care and custody order *(M.) G. v. Children's Aid Society of Cape Breton-Victoria*, C.A. No. 298122, Bateman, J.A., December 11, 2008. 2008 NSCA 114; **S584/4**

(M.) G. v. Children's Aid Society of Cape Breton-Victoria

[Link to printable version of decision](#)

FAMILY LAW - Costs - permitted to set off arrears *S. (J.E.) v. M. (A.J.)*, S.F.H.M.C.A. No. 31396, MacDonald, B. J., December 4, 2008. 2008 NSSC 366; **S583/27**

S. (J.E.) v. M. (A.J.)

[Link to printable version of decision](#)

FAMILY LAW - Custody - aprenting schedule *D. (S.M.) v. D. (J.P.)*, No. 1201-062700, O'Neil, J., November 28, 2008. 2008 NSSC 354; **S583/26**

D. (S.M.) v. D. (J.P.)

[Link to printable version of decision](#)

FAMILY LAW - Custody - ex parte applications *Quigley v. Willmore*, No. 1207-003129 ; S.T.D. No. 056344, Williams, J., January 14, 2008. 2008 NSSC 95; **S585/3**

Quigley v. Willmore

[Link to printable version of decision](#)

FAMILY LAW - Custody - interim custody, jurisdiction *Quigley v. Willmore*, No. 1207-003129 ; S.T.D. No. 056344, Williams, J., March 20, 2008. 2008 NSSC 96; **S585/4**

Quigley v. Willmore

[Link to printable version of decision](#)

FAMILY LAW - Divorce - child support, custody and access *Gallant v. Gallant*, No. 1206-5246, MacLellan, J., November 5, 2008 ; September 30, 2008 (orally). 2008 NSSC 347; **S585/8**

Gallant v. Gallant

[Link to printable version of decision](#)

FAMILY LAW - Divorce - date of separation *Berriman v. Berriman*, No. 1205-002653 ; 050749, Scanlan, J., December 8, 2008 ; February 19, 2008 (orally). 2008 NSSC 370; **S585/11**

Berriman v. Berriman

[Link to printable version of decision](#)

FAMILY LAW - Divorce - foreign jurisdiction, custody and child support *Quigley v. Willmore*, No. 1207-003129 ; S.T.D. No. 056344 ; No. 1201-061186 ; S.F.H.D. No. 049599, Williams, J., November 26, 2008. 2008 NSSC 353; **S585/5**
Quigley v. Willmore
[Link to printable version of decision](#)

FAMILY LAW - Procedure - costs of application to vary maintenance *MacGillivray v. Ross*, No. 52187, Forgeron, J., December 9, 2008. 2008 NSSC 376; **S585/1**
MacGillivray v. Ross
[Link to printable version of decision](#)

LAND REGULATION - Land use by-law - accessory building, boat house *Morrison v. Halifax (Regional Municipality)*, S.H. No. 286194, Scaravelli, J., December 10, 2008. 2008 NSSC 375; **S585/2**
Morrison v. Halifax (Regional Municipality)
[Link to printable version of decision](#)

LANDLORD AND TENANT - Outstanding rent-vacant possession *Byard v. Lummis*, Claim No. 303698, Slone, Adjudicator, December 10, 2008. 2008 NSSM 81; **SmCI12/11**
Byard v. Lummis
[Link to printable version of decision](#)

MAINTENANCE - Child support - application to vary *Wood v. Gates*, No. 1201-060295, Dellapinna, J., October 15, 2008. 2008 NSSC 358; **S583/30**
Wood v. Gates
[Link to printable version of decision](#)

MAINTENANCE - Child support - application to vary *Savage v. Hutchins*, S.F.H.I.S.O.V. No. 59890, Legere-Sers, J., December 1, 2008. 2008 NSSC 361; **S585/6**
Savage v. Hutchins
[Link to printable version of decision](#)

MAINTENANCE - Spousal support - short term marriage, pension contributions prior to marriage *Foster v. Foster*, No. 1202-001684, Kennedy, C.J., December 8, 2008. 2008 NSSC 371; **S583/29**
Foster v. Foster
[Link to printable version of decision](#)

NEGLIGENCE - Occupier's liability - fall in bank entrance, appeal dismissed, expert evidence *Miller v. Royal Bank of Canada*, C.A. No. 293629, Saunders, J.A., December 16, 2008. 2008 NSCA 118; **S584/6**
Miller v. Royal Bank of Canada
[Link to printable version of decision](#)

OCCUPATIONAL HEALTH AND SAFETY - Offences - sentencing *R. v. Nova Scotia Power Inc.*, No. 1714395, Derrick, J.P.C., December 1, 2008. 2008 NSPC 72; **M18**
R. v. Nova Scotia Power Inc.
[Link to printable version of decision](#)

PRACTICE - Appeals - dismissed *MacQueen et al. v. Canada (Attorney General) et al.*, C.A. No. 298520 ; 301824, Saunders, J.A., December 16, 2008. 2008 NSCA 117; **S584/5**
MacQueen et al. v. Canada (Attorney General) et al.
[Link to printable version of decision](#)

PRACTICE - Doctor's files - request for publication and sealing order *Osif v. College of Physicians and Surgeons of Nova Scotia*, C.A. No. 299088, Oland, J.A., December 5, 2008. 2008 NSCA 113; **S584/3**
Osif v. College of Physicians and Surgeons of Nova Scotia

[Link to printable version of decision](#)

WILLS AND ESTATES - Claim against estate - proceeds of sale of property *Greenough Estate (Re)*, S.H. No. 299953, Duncan, J., November 27, 2008. 2008 NSSC 355; **S583/24**

Greenough Estate (Re)

[Link to printable version of decision](#)

SUPREME COURT of CANADA — recent decisions

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Recent Decisions from the Supreme Court of Canada

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The following decisions were released from the Supreme Court of Canada since the last *InForum*. The subject headings and summaries have been prepared by the Supreme Court of Canada.

December 19, 2008

BCE Inc. v. 1976 Debentureholders

<http://csc.lexum.umontreal.ca/en/2008/2008scc69/2008scc69.html>

Neutral citation: 2008 SCC 69

File No.: 32647

2008: June 17; 2008: June 20

Reasons delivered: December 19, 2008

Present: McLachlin C.J. and Bastarache, Binnie, LeBel, Deschamps, Abella and Charron JJ.

On appeal from the Court of Appeal for Québec

Commercial law — Corporations — Oppression — Fiduciary duty of directors of corporation to act in accordance with best interests of corporation — Reasonable expectation of security holders of fair treatment — Directors approving change of control transaction which would affect economic interests of security holders — Whether evidence supported reasonable expectations asserted by security holders — Whether reasonable expectation was violated by conduct found to be oppressive, unfairly prejudicial or that unfairly disregards a relevant interest — Canada Business Corporations Act, R.S.C. 1985, c. C-44, ss. 122(1)(a), 241.

Commercial law — Corporations — Plan of arrangement — Proposed plan of arrangement not arranging rights of security holders but affecting their economic interests — Whether plan of arrangement was fair and reasonable — Canada Business Corporations Act, R.S.C. 1985, c. C-44, s. 192.

At issue is a plan of arrangement that contemplates the purchase of the shares of BCE Inc. ("BCE") by a consortium of purchasers ("the Purchaser") by way of a leveraged buyout. After BCE was put "in play", an auction process was held and offers were submitted by three groups. All three offers contemplated the addition of a substantial amount of new debt for which Bell Canada, a wholly-owned subsidiary of BCE, would be liable. BCE's board of directors found that the Purchaser's offer was in the best interests of BCE and BCE's shareholders. Essentially, the arrangement provides for the compulsory acquisition of all of BCE's outstanding shares. The price to be paid by the Purchaser represents a premium of approximately 40 percent over the market price of BCE shares at the relevant time. The total capital required for the transaction is approximately \$52 billion, \$38.5 billion of which will be supported by BCE. Bell Canada will guarantee approximately \$30 billion of BCE's debt. The Purchaser will invest nearly \$8 billion of new equity capital in BCE.

The plan of arrangement was approved by 97.93 percent of BCE's shareholders, but was opposed by a group of financial and other institutions that hold debentures issued by Bell Canada. These debentureholders sought relief under the oppression remedy under s. 241 of the *Canada Business Corporations Act* ("CBCA"). They also alleged that the arrangement was not "fair and reasonable" and opposed court approval of the arrangement under s. 192 of the CBCA. The crux of their complaints is that, upon the completion of the arrangement, the short-term trading value of the debentures would decline by an average of 20 percent and could lose investment grade status.

The Quebec Superior Court approved the arrangement as fair and dismissed the claim for oppression. The Court of Appeal set aside that decision, finding the arrangement had not been shown to be fair and held that it should not have been approved. It held that the directors had not only the duty to ensure that the debentureholders' contractual rights would be respected, but also to consider their reasonable expectations which, in its view, required directors to consider whether the adverse impact on debentureholders' economic interests could be alleviated. Since the requirements of s. 192 of the CBCA were not met, the court found it unnecessary to consider the oppression claim. BCE and Bell Canada appealed the overturning of the trial judge's approval of the plan of arrangement, and the debentureholders cross-appealed the dismissal of the claims for oppression.

Held: The appeals should be allowed and the cross-appeals dismissed.

December 11, 2008

Confédération des syndicats nationaux v. Canada (Attorney General)

<http://csc.lexum.umontreal.ca/en/2008/2008scc68/2008scc68.html>

Neutral citation: 2008 SCC 68

File Nos.: 31809, 31810

2008: May 13; 2008: December 11

Present: McLachlin C.J. and Binnie, LeBel, Deschamps, Fish, Abella and Rothstein JJ.

On appeal from the Court of Appeal for Québec

Constitutional law — Division of powers — Unemployment insurance — Series of active measures designed to maintain tie between insured persons and labour market — Whether provisions of federal employment insurance legislation relating to employment service, to training and work-sharing programs and to employment benefits are valid — Constitution Act, 1867, s. 91(2A) — Employment Insurance Act, S.C. 1996, c. 23, ss. 24, 25, 56 to 65.2, 73, 75, 77, 109(c), 135(2).

Constitutional law — Taxation — Delegation of taxing authority — Principle of parliamentary control over collection of taxes — Employment insurance surpluses accumulated in Consolidated Revenue Fund — Power to set premium rates delegated without legislated criteria — Whether employment insurance premiums constitute administrative charge or tax — If they constitute tax, whether they were collected in accordance with principle of parliamentary control and pursuant to valid delegation — Constitution Act, 1867, ss. 53, 91(3) — Employment Insurance Act, S.C. 1996, c. 23, ss. 66 to 66.3, 72.

In 1996, the *Employment Insurance Act* established the legal framework for a significant restructuring of the unemployment insurance system. In addition to the usual active measures against unemployment, such as an employment service and training and work-sharing programs (ss. 60, 25 and 24), five types of employment benefits were introduced in this legislation (s. 59): wage subsidies, earnings supplements, self-employment assistance, job creation partnerships and skills loans or grants.

Two events related to the financing of the system laid the groundwork for the new legislation: in 1986, on the recommendation of the Auditor General of Canada, the Employment Insurance Account was consolidated with

government revenues as a whole and, in 1990, the government stopped financing the Account out of its general revenues, relying on premiums at an annual rate based, at that time, on the cost over only a few previous years. In the 1996 legislation, Parliament revised the financing of the Account in order to balance the program's budget over the long term. Section 66 set out guidelines for a system under which premiums were to be set high enough to cover the system's current expenditures and ensure the gradual accumulation of a reserve so that rates could be stabilized regardless of the constraints of business cycles. In the space of six or seven years, the deficits were absorbed and surpluses totaling more than \$40 billion were accumulated. In 2001, Parliament enacted s. 66.1, which, departing from s. 66, authorized the Governor General in Council to set premium rates directly for 2002 and 2003. For 2004, Parliament set the premium rate in the Act itself. For 2005, it went back, by enacting s. 66.3, to having the Governor General in Council set the rates.

The appellants brought declaratory actions to challenge the constitutional validity of the "active" measures, the premium-setting mechanisms, the accumulation of surpluses and the allocation of those surpluses to overall federal expenditures. The Quebec Superior Court and Court of Appeal rejected their arguments.

Held: The appeals should be allowed in part. The versions of ss. 66.1 and 66.3 of the *Employment Insurance Act* in force in 2001, 2002 and 2005 were unconstitutional. Employers' and employees' premiums for those years were collected unlawfully. This declaration is suspended for a period of 12 months from the date of this judgment.

:: NEW BILLS ::

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Nova Scotia Bills

[http://www.gov.ns.ca/legislature/HOUSE BUSINESS/status.html](http://www.gov.ns.ca/legislature/HOUSE_BUSINESS/status.html)

The House adjourned on November 25, 2008.
There are no new bills at this time.