

SUPREME COURT WATCH

A digest of recent significant decisions of the Supreme Court of Canada

Ontario Hydro v. Ontario (Labour Relations Board) September 30, 1993

A group of employees at Ontario Hydro's nuclear facilities applied to the Ontario Labour Relations Board for certification. The board ruled it did not have the ability to certify the unit because the employees were subject to the *Canada Labour Code*, because nuclear energy regulation is a federal responsibility. The Divisional Court overturned the board's decision, but on a subsequent appeal to the Ontario Court of Appeal, the board's decision was upheld. The appeal was dismissed when heard by the Supreme Court, which found that the *Canada Labour Code* applies to Ontario Hydro employees connected to nuclear facilities as covered by section 18 of the *Atomic Energy Control Act*.

Hy and Zel's Inc. v. Ontario (Attorney General); Paul Magder Furs Ltd. v. Ontario (Attorney General) October 21, 1993

Both appellant companies brought civil applications against the Ontario attorney general to have sections of the Ontario *Retail Business Holidays Act* declared an unconstitutional violation of the freedom of religion. Judgments were stayed in the Ontario courts until the outcome of *Peel (Regional Municipality) v. Great Atlantic and Pacific Co. of Canada* was heard, which raised a similar issue. In these appeals, the Supreme Court held that neither appellant had standing in *Peel*, because even if the companies had religious rights, there was no factual evidence to suggest that their rights were infringed.

R. v. Dersch October 21, 1993

The accused was driving a car that collided head-on with another car, killing the other driver. The accused was charged with criminal negligence causing death and bodily harm and having care and control of a car while impaired, causing death and bodily harm. In the accident, the accused was injured. He objected to a blood sample being taken by the police. When he lapsed into unconsciousness at the hospital, a blood sample was taken for medical tests and one vial was provided to the police for blood alcohol testing. The accused was later asked to supply a blood sample to the police, and he refused. At trial, the Crown introduced into evidence

the blood sample and a report from the attending doctor, which included the level of blood alcohol. The convictions were upheld in the B.C. Court of Appeal. The Supreme Court overturned the convictions and ordered a new trial. It found the doctor had breached the duty of confidentiality and that the information was unreasonably obtained without a warrant. The accused was acquitted on the driving offences, and a new trial was ordered on the criminal negligence charges.

PARLIAMENTARY UPDATE

Parliament will convene on January 17, 1994.

CANADA WATCH CALENDAR

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| Oct. 25 | Canadians elect a Liberal majority government led by Jean Chrétien. |
| Oct. 28 | Chrétien appoints Robert Nixon to conduct a month-long review of the Pearson privatization deal. |
| Nov. 1-30 | CRTC telecommunication industry hearings in Hull. |
| Nov. 2 | Conservatives win Nova Scotia byelection. |
| Nov. 4 | Chrétien and Liberal Cabinet sworn in. Chrétien announces EH-101 helicopter deal is cancelled. |
| Nov. 5 | Groupe Action-Québec releases manifesto proposing new provincial party. |
| Nov. 6 | Grace McCarthy wins leadership of B.C. Social Credit party. |
| Nov. 17 | U.S. House of Representatives expected to vote on NAFTA. |
| Nov. 22 | Judicial inquiry into Canada's tainted blood tragedy to begin. |
| Nov. 24-25 | Western premiers conference to be held in Canmore, Alberta. |
| Jan. 1 | NAFTA scheduled to come into force. |
| Jan. 28-30 | Quebec Liberal party to select successor to Robert Bourassa. |