

**IN THE SUPREME COURT OF CANADA**  
(ON APPEAL FROM THE COURT OF APPEAL FOR ALBERTA)

IN THE MATTER of An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts, SC 2019, c 28 and the Physical Activities Regulations, SOR/2019-285

AND IN THE MATTER of a Reference by the Lieutenant Governor in Council to the Court of Appeal of Alberta under the Judicature Act, RSA 2000, c J-2, s 26

BETWEEN:

**ATTORNEY GENERAL OF CANADA**

**APPELLANT**

- and -

**ATTORNEY GENERAL OF ALBERTA**

**RESPONDENT**

- and -

(style of cause continued on next page)

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**FACTUM OF THE INTERVENER,**  
**EXPLORERS AND PRODUCERS ASSOCIATION OF CANADA**  
(Pursuant to Rule 42 of the *Rules of the Supreme Court of Canada*)

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## I. OVERVIEW

1. The Explorers and Producers Association of Canada ("**EPAC**") represents over 100 junior and mid-sized oil and gas companies operating in Canada. EPAC's membership, located primarily in Western Canada, is responsible for producing more than 50% of Canada's liquid natural gas and 30% of Canada's total oil production, including from *in situ* extraction operations in Alberta. EPAC is concerned that the *Impact Assessment Act* (the "**IAA**")<sup>1</sup> and the *Physical Activities Regulations* (the "**Regulations**")<sup>2</sup> will create uncertainty and delay in the development of major projects, which will impact investment in the oil and natural gas industry in Canada. In EPAC's submissions, the doctrine of interjurisdictional immunity ("**IJI**") would act to mitigate these effects.

2. EPAC's submissions focus on the doctrine of IJI, which the Alberta Court of Appeal addressed at paragraphs 428 to 430 of its decision.<sup>3</sup> EPAC submits that IJI should apply to protect the "core" of the relevant heads of power within the provinces' exclusive jurisdiction under s. 92A(1) of the *Constitution Act, 1867*.<sup>4</sup>

3. The doctrine of IJI provides that there is "a basic, minimum and unassailable content" necessary to make the legislative power of one level of government effective for the purpose for which it was conferred, and is thus immune from incursion by the other level of government.<sup>5</sup> In this case, where the power to be protected is a provincial head of power, the core of that power—its most essential or necessary elements—will generally be preserved by reading down the offending federal law.<sup>6</sup>

4. Here, the "basic, minimum and unassailable" content of the provinces' legislative powers, or the "core", under s. 92A(1) is the province's *exclusive* ability to approve and regulate certain projects, including *in situ* oil sands facilities, that are necessary for the development of the

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<sup>1</sup> *Impact Assessment Act*, SC 2019, c 28, s 1 [the **IAA**].

<sup>2</sup> *Physical Activities Regulations*, SOR/2019-285 [the **Regulations**].

<sup>3</sup> *Reference re Impact Assessment Act*, 2022 ABCA 165 [the **ABCA Decision**].

<sup>4</sup> *Constitution Act, 1867*, (UK) 30 & 31 Vict c 3, reprinted RSC 1985, App II No 5, ss 92(5), 92(10), and 92A(1) [**Constitution Act, 1867**]; *ABCA Decision*, *supra* note 3 at para 430.

<sup>5</sup> *Canadian Western Bank v Alberta*, 2007 SCC 22 at paras 33-34, 48 [**Canadian Western Bank**].

<sup>6</sup> *Ibid* at para 35; See also: *R v Dominion Stores Ltd* (1979), [1980] 1 SCR 844 at 865-66 [**Dominion Stores**]; *Labatt Breweries v Canada* (1979), [1980] 1 SCR 914 at 947; *Public Service Alliance of Canada v Canada*, 2006 SCC 29; *Singbeil v Hansen* (1985), 19 DLR (4th) 48 (BCCA) at paras 35 and 54 [one of three concurring judgments] [**Singbeil**].

provinces' non-renewable natural resources. The IAA and Regulations displace this core power and replace it with a discretionary federal impact assessment and approval regime that not only impairs a provincial power, but, in some cases, may effectively paralyze it.

## II. ARGUMENT

### A. The doctrine of IJI

5. The structure of the *Constitution Act, 1867* reflects Canada's nature as a federal state: it allocates heads of power between two levels of government according to which objectives are best achieved at a national level and provincial level.<sup>7</sup> This division of powers reflects the autonomy of the provinces and the importance of ensuring that regionally diverse provincial governments can "develop their societies within their respective spheres of jurisdiction."<sup>8</sup>

6. The ability to develop their economies and resource bases is key to the provinces' authority over regional and societal development.<sup>9</sup> For this reason, they have exclusive jurisdiction over matters such as "the Management and Sale of the Public Lands belonging to the Province...", "Local Works and Undertakings...", "Property and Civil Rights in the Province", and the "development, conservation and management of non-renewable natural resources...in the province..."<sup>10</sup> What the division of powers does not address, however, is the environment. Given the degree of jurisdictional overlap between the two levels of government on environmental matters, and their often competing priorities, interjurisdictional conflicts inevitably arise.

7. In *Oldman River*, this Court recognized the threat that federal overreach on environmental assessments posed to provincial autonomy and limited federal involvement in the environmental assessment process to matters "truly in relation to an institution or activity that is otherwise within [federal] legislative jurisdiction."<sup>11</sup> This creates a proper balance between the levels of government and preserves core areas of provincial jurisdiction over natural resource development.

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<sup>7</sup> *Reference re Secession of Quebec*, [1998] 2 SCR 217 at para 58 [*Secession Reference*].

<sup>8</sup> *Ibid* at para 58.

<sup>9</sup> *R v Comeau*, 2018 SCC 15 at paras 56, 78, 80 and 85; *Constitution Act, 1867*, *supra* note 4, ss 92(5), 92(10), 92(13), 92A, and 109. See also: *Constitution Act, 1930*, RSC 1985, App II, No 26.

<sup>10</sup> *Constitution Act, 1867*, *supra* note 4, ss 92(5), 92(10), 92(13), and 92A.

<sup>11</sup> *Friends of the Oldman River Society v Canada (Minister of Transport)*, [1992] 1 SCR 3 at para 105 [*Oldman River*].



8. IJI preserves this balance by recognizing the exclusive legislative authority of the subjects under ss. 91 and 92 of the *Constitution Act, 1867* and the "basic, minimum and unassailable content immune from the application of legislation enacted by the other level of government."<sup>12</sup>

## **B. The test for IJI**

9. This Court recently described the two-step test for IJI in *Desgagnés Transport Inc v Wärtsilä*: "[f]irst, the impugned provision must trench on the core of an exclusive head of power under the *Constitution Act, 1867*. Second, the effect of this overlap must impair the exercise of the core of the head of power."<sup>13</sup>

### *i. The development of non-renewable natural resources is at the core of s. 92A(1)*

10. The first step, in this case, is to identify the core of provincial authority over the development and management of their non-renewable natural resources to determine whether IJI operates to protect the provinces' jurisdiction from impairment by the IAA and the Regulations. The core of a head of power "refers to the content that is necessary to make the power effective for the purpose for which it was conferred."<sup>14</sup> Here, the relevant head of power is s. 92A(1), which grants the provinces' exclusive jurisdiction over the development and management of non-renewable natural resources in the province that are not otherwise located on, within, or under federal lands.<sup>15</sup> To understand the content and purpose of this power, it is necessary to understand the forces that gave rise to its enactment:

**In a general sense, the interventionist policies of the federal authorities in the 1970s in relation to natural resources, particularly oil and other petroleum products, were a source of major concern to the provinces.**

...

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<sup>12</sup> *Canadian Western Bank*, *supra* note 5 at para 33; *Canada (Attorney General) v PHS Community Services Society*, 2011 SCC 44 at para 58 [*PHS*].

<sup>13</sup> *Desgagnés Transport Inc v Wärtsilä*, 2019 SCC 58 at para 92.

<sup>14</sup> *Quebec (Attorney General) v IMTT-Québec Inc et al*, 2019 QCCA 1598 at para 93 [*IMTT*], leave to appeal to SCC refused, 38929 (16 April 2020).

<sup>15</sup> *Constitution Act, 1867*, *supra* note 4, s 92A.

It was to respond to this insecurity about provincial jurisdiction over resources — **one of the mainstays of provincial power** — that s. 92A was enacted.<sup>16</sup>

11. As the Alberta Court of Appeal found, s. 92A "represents a clear, deliberate negotiated amendment to the Constitution intended to assure exclusive provincial jurisdiction over the *exploration, development, management and conservation* of a province's 92A natural resources."<sup>17</sup> The purpose of s. 92A was to limit the historical federal intrusion into provincial resource and economic development. There is nothing more essential to this "core" than deciding which resources to develop, nor is there any "content" more necessary to make this power effective than the regulation of undertakings that enable their development. EPAC is concerned that allowing the IAA and Regulations to intrude on this "core" as deeply as they do defeats the purpose of s. 92A(1).

*ii. The lack of precedent for a s. 92A(1) "core" of power is not determinative of IJI*

12. Canada suggests that the doctrine of IJI is not reciprocal as this Court has "rejected the application of the doctrine to protect provincial legislation from the application of federal legislation."<sup>18</sup> However, the lack of precedent is not fatal to the IJI analysis.<sup>19</sup> In particular, if its application is necessary to "enable...a provincial legislature to achieve the purpose for which exclusive legislative jurisdiction was conferred" or to "enable an undertaking to carry out its mandate in what makes it specifically of... provincial...jurisdiction,"<sup>20</sup> IJI should be used to protect provincial jurisdiction and maintain the balance of federalism.

13. Recently, in *Attorney General of Quebec v IMTT-Quebec inc. (IMTT)*, the Quebec Court of Appeal applied IJI to prevent provincial overreach with discretionary environmental assessments. The reasoning the Court applied in *IMTT* applies equally to this case. In *IMTT*, the Court considered whether Québec's *Environmental Quality Act* (the "*EQA*") applied to the

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<sup>16</sup> *Ontario Hydro v Ontario (Labour Relations Board)*, [1993] 3 SCR 327 at paras 80-81 [emphasis added].

<sup>17</sup> *ABCA Decision*, *supra* note 3 at para 72.

<sup>18</sup> Factum of the Attorney General of Canada at para 153 [**Canada Factum**].

<sup>19</sup> *PHS*, *supra* note 12 at para 67.

<sup>20</sup> *Canadian Western Bank*, *supra* note 5 at para 77.

activities and facilities of IMTT-Québec Inc. ("**IMTT-Quebec**"), a company that operates transshipment and storage containers for bulk liquid products at the port of Québec.

14. Following an extensive IJI analysis, the Court concluded that the *EQA* was inapplicable and that IMTT-Quebec did not need to seek provincial authorizations to carry out its activities on federal public property in connection with navigation or shipping.<sup>21</sup> The Court thus limited the encroachment of environmental legislation on another government's jurisdiction.

15. While the question in *IMTT* concerned the applicability of IJI in favour of federal jurisdiction, the Court's findings also apply to this Reference. In particular, the Court held that IJI excludes the application of environmental legislation that regulates the core of a head of power,<sup>22</sup> which may extend to include the "development, use and regulation" of lands and resources.<sup>23</sup>

16. The legal analysis the Court undertook to identify and shield the core of federal jurisdiction over the use of federal lands in connection with navigation and shipping is applicable to identifying and preserving the core of provincial jurisdiction over provincial lands and non-renewable natural resources in connection with their development and management. To conclude otherwise reinforces the "asymmetrical" application of IJI this Court warned of in *Canadian Western Bank*, where the doctrine protects federal heads of power from incidental intrusions by provincial legislatures, but does not do the same for provincial heads of power.<sup>24</sup> Further, while this Court has left an opening to identify new areas where IJI applies,<sup>25</sup> precedent supports the conclusion that the provincial Crowns' proprietary rights over the development of its natural resources are essential to provincial authority and inform the logic of the division of powers taken as a whole.<sup>26</sup>

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<sup>21</sup> *IMTT*, *supra* note 14 at para 4.

<sup>22</sup> *Ibid* at para 202.

<sup>23</sup> *Ibid* at paras 200-201.

<sup>24</sup> *Canadian Western Bank*, *supra* note 5 at para 45.

<sup>25</sup> *Ibid* at para 77; *PHS*, *supra* note 12 at paras 65, 67.

<sup>26</sup> *Reference re Exported Natural Gas Tax*, [1982] 1 SCR 1004 at paras 129-30; *Consolidated Fastfrate Inc v Western Canada Council of Teamsters*, 2009 SCC 53 at para 33; *Westcoast Energy Inc v Canada (National Energy Board)*, [1998] 1 SCR 322 at para 166 (in dissent).

*ii. The IAA and Regulations impermissibly impair the core of s. 92A(1)*

17. The second step of the IJI analysis requires this Court to consider whether the effect of federal interference impairs provincial authority. This Court recently affirmed the decision of the British Columbia Court of Appeal in *Reference re Environmental Management Act (British Columbia)*, which held that a permitting regime whose default effect was to prohibit the carriage of heavy oil in the province was a serious infringement of federal jurisdiction over interprovincial undertakings.<sup>27</sup> While the British Columbia Court of Appeal did not conduct an IJI analysis in this case, the Court's findings are relevant to the IJI analysis as it contemplates the *effects* of a law on its constitutional validity, rather than its apparent or stated intention.

18. Here, the IAA is triggered where a designated project may have an "effect" on certain broadly defined federal matters. This approach will preclude Alberta from making important decisions concerning the development of its non-renewable natural resources, particularly in respect of *in situ* oil sands facilities. The development of oil sands resources is a matter of economic importance to Alberta and it is anticipated that Alberta will develop approximately 81% of its oil sands resource using *in situ* methods.<sup>28</sup> It follows that Alberta's ability to approve and regulate *in situ* oil sands facilities is central to its ability to effectively develop and manage its constitutionally protected non-renewable natural resources.

19. Under the IAA, certain *in situ* oil sands facilities are "designated projects."<sup>29</sup> This means that, unless the federal impact assessment process otherwise screens it out,<sup>30</sup> *in situ* oil sands facilities and, by extension, the development of a vast majority of Alberta's natural resources, will not proceed without first satisfying the federal government's discretionary approval process.<sup>31</sup> The Alberta Court of Appeal recognized the impact of the IAA on provincial authority, holding that, if upheld "all provincial industries, almost every aspect of a province's economy that the federal

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<sup>27</sup> *Reference re Environmental Management Act*, 2019 BCCA 181 at paras 105-106, aff'd 2020 SCC 1 [*BC Pipeline Reference*].

<sup>28</sup> *ABCA Decision*, *supra* note 3 at para 134.

<sup>29</sup> IAA, *supra* note 1, ss 2, *sub verbo* "designated project", 109(b); Regulations, *supra* note 2, ss 32 and 33.

<sup>30</sup> IAA, *supra* note 1, s 7(3).

<sup>31</sup> *Ibid*, ss 22 and 63.

government chooses to sweep within the IAA ... would be subject to federal regulation, including an effective federal veto."<sup>32</sup>

20. The effect of the IAA and Regulations is to undermine the division of powers and to remove *in situ* oil sands facilities from provincial jurisdiction, subjecting the continued development of Alberta's non-renewable natural resources to federal regulation. Indeed, without a federal approval, these projects cannot proceed. This goes beyond impairment and paralyzes the core of provincial authority under s. 92A(1).<sup>33</sup>

21. In *Reference re Environmental Management Act (British Columbia)*, this Court affirmed the decision of the British Columbia Court of Appeal, which characterized a discretionary permitting scheme whose "default position" was to prohibit the carriage of certain heavy oils in a federal pipeline as an "immediate and existential threat" to the expansion and subsequent operation of the pipeline.<sup>34</sup> The Court held that a permitting regime whose default effect was to prohibit the carriage of heavy oil in the province was a serious infringement of federal jurisdiction over interprovincial undertakings.

22. Similarly, in *Commission de transport de la communautre urbaine de Quebec v Canada*, Gonthier J. on behalf of this Court wrote that:

The consequence of applying the legislation on permits would be to make the setting up, substance and maintenance of the federal transport service **subject to the largely discretionary control of the Commission des transports and the government**, when these aspects are within exclusive federal jurisdiction. **The Regulation is therefore constitutionally inapplicable to the federal service, as are the provisions of the Act dealing with the permit system.**<sup>35</sup>

23. Applied here, a designated project triggers the IAA and Regulations where it may have an "effect" on certain broadly defined federal matters and the "default position" is to establish a continued prohibition or veto over a province's ability to regulate the development of its non-

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<sup>32</sup> *ABCA Decision*, *supra* note 3 at para 24.

<sup>33</sup> *Canadian Western Bank*, *supra* note 5 at para 48.

<sup>34</sup> *BC Pipeline Reference*, *supra* note 27 at para 97.

<sup>35</sup> *Commission de transport de la communautre urbaine de Quebec v Canada*, [1990] 2 SCR 838 at para 46 [*Commission de transport*] [emphasis added].

renewable natural resources, replacing provincial authority with a discretionary federal approval process. Not only do the IAA and Regulations trench on the core of an exclusive provincial head of power, they impair the ability of the province to "achieve the purpose for which exclusive legislative jurisdiction [over non-renewable natural resources] was conferred."<sup>36</sup>

24. Canada submits that the impact assessment process will screen out designated projects that do not have Adverse Federal Effects (as defined in Canada's Factum).<sup>37</sup> But this does not change the fact that the IAA and Regulations prohibit the development and operation of certain *in situ* oil sands facilities, even if they do not have any significant impact on federal jurisdiction. This invites litigation on a project-by-project basis, further increasing uncertainty, delaying important projects, and, potentially, discouraging investment.

25. In the *Reference re Environmental Management Act (British Columbia)* the Court's solution to a similar legislative intrusion was to declare it unconstitutional. In *Commission de transport*, the Court used IJI to determine that both the regulations and the enabling legislation were "constitutionally inapplicable" to the extent that they interfered with exclusively federal matters. EPAC submits that both options are available to this Court.

### **C. IJI is not contrary to cooperative federalism**

26. A further criticism of the application of IJI is that it would be contrary to cooperative federalism.<sup>38</sup> Here, IJI is not in tension with cooperative federalism because the IAA and Regulations have the effect of modifying the division of powers.<sup>39</sup>

27. Cooperative federalism provides that a court should favour, where possible, the ordinary operation of statutes enacted by both levels of government.<sup>40</sup> However, while this Court has recognized the importance of cooperative federalism, it has also recognized its limits. Courts may

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<sup>36</sup> *Canadian Western Bank*, *supra* note 5 at para 77.

<sup>37</sup> Canada Factum, *supra* note 18 at paras 92-95.

<sup>38</sup> *Ibid* at para 152.

<sup>39</sup> *PHS*, *supra* note 12 at para 63.

<sup>40</sup> *Canadian Western Bank*, *supra* note 5 at para 37.

not use the principle of cooperative federalism to "override or modify the separation of powers"<sup>41</sup> or "erode the constitutional balance inherent in the Canadian Federal state."<sup>42</sup>

28. Here, the IAA and the Regulations exceed the limits of cooperative federalism by seeking to use environmental legislation to modify the province's exclusive authority. The use of IJI in these circumstances could actually drive interjurisdictional dialogue. If Parliament wishes to better align provincial resource development with federal objectives, it should cooperate with the legislatures, not unilaterally displace provincial jurisdiction under the guise of environmental legislation.

#### **D. The use of IJI will not create a legislative vacuum**

29. The use of IJI here will not create the risk of a "legal vacuum."<sup>43</sup> This Court has recognized that, in some instances, the doctrine of IJI runs the risk of creating a legal vacuum where, despite the absence of a law enacted at one level of government, the laws enacted by the other level cannot have even an incidental effect on the "core" of jurisdiction.<sup>44</sup> That is not the case here.

30. The application of IJI to this case is consistent with subsidiarity as an underlying principle of federalism.<sup>45</sup> Subsidiarity provides that "law-making and implementation are often best achieved at a level of government that is not only effective, but also closest to the citizens affected and thus most responsive to their needs, to local distinctiveness, and to population diversity."<sup>46</sup> In this way, subsidiarity acts as a counterbalance to the creep of centralization in constitutional interpretation.<sup>47</sup>

31. As the Alberta Court of Appeal found, *in situ* operations in Alberta are subject to a robust regulatory regime through the Alberta Energy Regulator that ensures the safe and orderly

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<sup>41</sup> *Reference re Securities Act (Canada)*, 2011 SCC 66 at paras 61-62 [*SCC Securities Reference*].

<sup>42</sup> *ABCA Decision*, *supra* note 3 at para 187.

<sup>43</sup> *PHS*, *supra* note 2 at para 64.

<sup>44</sup> *Canadian Western Bank*, *supra* note 5 at para 44.

<sup>45</sup> *Secession Reference*, *supra* note 7 at para 66.

<sup>46</sup> *ABCA Decision*, *supra* note 3 at para 149, citing *114957 Canada Ltée (Spraytech, Société d'arrosage) v Hudson (Town)*, 2001 SCC 40 at para 3.

<sup>47</sup> *Ibid* at para 150.

development of its non-renewable natural resources.<sup>48</sup> Moreover, the province has carefully calibrated the regulatory regime to balance environmental protection with resource development in a manner that is responsive to the interests and concerns of those most directly impacted—its residents. The IAA and the Regulations fail to do this. For this reason, and contrary to Canada's claims,<sup>49</sup> the recognition of provincial IJI would not create a legislative vacuum but would rather represent an incremental evolution in division of powers jurisprudence consistent with the subsidiarity principle.

### III. CONCLUSION

32. The exclusive ability to approve and regulate projects located on provincial lands that are directly related to and necessary for the development and management of the provinces' non-renewable natural resources forms the core of the provinces power under s. 92A(1). Maintaining this core provincial power is necessary to ensure that major projects can move forward in a manner that is environmentally responsible and benefits all Canadians.

### IV. COSTS

33. EPAC seeks no order as to costs and asks that no costs be awarded against it.

### V. REQUEST FOR ORAL ARGUMENT

34. EPAC requests 5 minutes of oral argument.

RESPECTFULLY SUBMITTED this 21<sup>st</sup> day of December, 2022

ESTIMATED TIME FOR ARGUMENT – 5 minutes.

**BURNET, DUCKWORTH & PALMER LLP**

Per: 

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<sup>48</sup> *ABCA Decision* at para 132.

<sup>49</sup> *Canada Factum*, *supra* note 18 at para 154.



## VI. TABLE OF AUTHORITIES

Legislative Authorities		Language		Paragraph Ref
1.	<i>Constitution Act, 1867</i> , (UK) 30 & 31 Vict c 3, reprinted RSC 1985, App II No 5	<u>English</u>	<u>French</u>	2, 6, 10
	s. 92	<u>English</u>	<u>French</u>	2, 6
	s. 92A	<u>English</u>	<u>French</u>	6, 10
	s. 109	<u>English</u>	<u>French</u>	6
2.	<i>Constitution Act, 1930</i> , RSC 1985, App II, No 26.	<u>English</u>		6
3.	<i>Impact Assessment Act</i> , SC 2019, c 28	<u>English</u>	<u>French</u>	1, 19
	s. 1	<u>English</u>	<u>French</u>	1
	s. 2	<u>English</u>	<u>French</u>	19
	s. 7	<u>English</u>	<u>French</u>	19
	s. 22	<u>English</u>	<u>French</u>	19
	s. 63	<u>English</u>	<u>French</u>	19
	s. 109	<u>English</u>	<u>French</u>	19
4.	<i>Physical Activities Regulations</i> , SOR/2019-285	<u>English</u>	<u>French</u>	1, 19
	s. 32	<u>English</u>	<u>French</u>	19
	s. 33	<u>English</u>	<u>French</u>	19
Case law and Commentary				Paragraph Ref
5.	<i>114957 Canada Ltée (Spraytech, Société d'arrosage) v Hudson (Town)</i> , 2001 SCC 40			30
6.	<i>Canada (Attorney General) v PHS Community Services Society</i> , 2011 SCC 44			8, 12, 26, 29
7.	<i>Canadian Western Bank v Alberta</i> , 2007 SCC 22			3, 8, 12, 16, 20, 23, 27, 29
8.	<i>Commission de transport de la communauté urbaine de Québec v Canada</i> , [1990] 2 SCR 838			22
9.	<i>Desgagnés Transport Inc v Wärtsilä</i> , 2019 SCC 58			9
10.	<i>Consolidated Fastfrate Inc v Western Canada Council of Teamsters</i> , 2009 SCC 53			16
11.	<i>Friends of the Oldman River Society v Canada (Minister of Transport)</i> , [1992] 1 SCR 3			7

Case law and Commentary	Paragraph Ref
12. <u>Labatt Breweries v Canada (1979), [1980] 1 SCR 914, 110 DLR (3d) 594</u>	3
13. <u>Ontario Hydro v Ontario (Labour Relations Board), [1993] 3 SCR 327</u>	10
14. <u>Public Service Alliance of Canada v Canada, 2006 SCC 29.</u>	3
15. <u>Quebec (Attorney General) v IMTT-Québec Inc et al, 2019 QCCA 1598</u>	10, 14, 15
16. <u>R v Comeau, 2018 SCC 15</u>	6
17. <u>R v Dominion Stores Ltd (1979), [1980] 1 SCR 844, 106 DLR (3d) 581</u>	3
18. <u>Reference re Environmental Management Act (British Columbia), 2019 BCCA 181.</u>	17, 21
19. <u>Reference re Exported Natural Gas Tax, [1982] 1 SCR 1004</u>	16
20. <u>Reference re Impact Assessment Act, 2022 ABCA 165</u>	2, 11, 18, 19, 27, 30, 31
21. <u>Reference re Secession of Quebec, [1998] 2 SCR 217</u>	5, 30
22. <u>Reference re Securities Act (Canada), 2011 SCC 66</u>	27
23. <u>Singbeil v Hansen (1985), 19 DLR (4th) 48 (BCCA), 63 BCLR 332</u>	3
24. <u>Westcoast Energy Inc v Canada (National Energy Board), [1998] 1 SCR 322</u>	16