

Federal Court of Appeal



Cour d'appel fédérale

Date: 20160223

Docket: A-57-15

Citation: 2016 FCA 59

**CORAM: TRUDEL J.A.
BOIVIN J.A.
DE MONTIGNY J.A.**

BETWEEN:

ROBERT BEAULIEU

Appellant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

Heard at Montréal, Quebec, on January 13, 2016.

Judgment delivered at Ottawa, Ontario, on February 23, 2016.

REASONS FOR JUDGMENT BY:

BOIVIN J.A.

CONCURRED IN BY:

**TRUDEL J.A.
DE MONTIGNY J.A.**

Federal Court of Appeal



Cour d'appel fédérale

Date: 20160223

Docket: A-57-15

Citation: 2016 FCA 59

**CORAM: TRUDEL J.A.
BOIVIN J.A.
DE MONTIGNY J.A.**

BETWEEN:

ROBERT BEAULIEU

Appellant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

REASONS FOR JUDGMENT

BOIVIN J.A.

I. Introduction

[1] Corporal Robert Beaulieu (the appellant) is appealing from a judgment rendered on January 15, 2015 (2015 FC 57) by a Federal Court judge (the judge), rejecting his application for judicial review of a decision by a level II grievance adjudicator for the Royal Canadian Mounted Police (the RCMP). The adjudicator rejected the three grievances the appellant filed against the

RCMP. The three grievances in question regarded three appointments to acting positions that were granted to members who had fewer years of seniority than the appellant.

[2] This appeal bears primarily on the interpretation of section 8 of the *Royal Canadian Mounted Police Regulations (1988)*, SOR/88-361 (the Regulations). Note that the Regulations have since been repealed and replaced by the *Royal Canadian Mounted Police Regulations (2014)*, SOR/2014-281. That section of the Regulations sets out the rule according to which seniority takes precedence in the case of acting appointments unless the RCMP Commissioner (the Commissioner) departs from that general principle and “directs otherwise”. More specifically, this case involves determining whether appointing members based on merit - rather than on seniority – pursuant to part 4.E.9 of the RCMP Career Management Manual (part 4.E.9 of the Manual) constitutes an “order” by the Commissioner within the meaning of section 8 of the Regulations.

[3] For the reasons that follow, I conclude that the appeal should be dismissed.

II. Background

[4] The appellant has been a member of the RCMP since 1982. He has the rank of Corporal and he holds a position of investigator. On July 7, 2008, August 4, 2008, and July 8, 2010, respectively, he filed three grievances to challenge decisions to appoint corporals with less seniority than him, to three acting staff sergeant positions (Sergeant Supervisor of Group 1; Staff Sergeant; Sergeant). In the grievances, the appellant alleged that he was the regular member of

lower rank with the most seniority and was thus eligible for the appointment under section 8 of the Regulations:

8. In the absence of the person in command or the person in charge of a post, the command or charge of a post shall, unless the Commissioner directs otherwise, be exercised by the next senior regular member on staff in respect of that post as determined by the order of precedence for regular members in subsection 15(1).

[My emphasis]

8. En l'absence de la personne qui a le commandement d'un poste ou de celle qui en a la direction, le commandement ou la direction du poste est assuré, à moins que le Commissaire n'en ordonne autrement, par le membre régulier du grade inférieur suivant, selon l'ordre de préséance des membres réguliers établi au paragraphe 15(1), qui a le plus d'ancienneté et qui est affecté à ce poste.

[Je souligne]

[5] The appellant acknowledges that the Commissioner may depart from the seniority principle but argues that if the Commissioner wanted to create a general rule in that regard, he had to proceed by making a rule or standing order within the meaning of subsection 2(2) of the *Royal Canadian Mounted Police Act*, R.S.C., (1985), c. R-10 (the Act), which he failed to do.

[6] The respondent did not contest the fact that the appellant was the regular member of lower rank with the most seniority. However, the respondent argues that by appointing candidates with fewer years of experience than the appellant, the sergeant responsible for those appointments invoked part 4.E.9 of the Manual, which provides that acting appointments are made based on merit:

4.E.9. The immediate supervisor of a position being vacated will appoint, on the basis of merit, an employee to temporarily perform the duties of a vacated position. [TRANSLATION] The requirements of the position, namely linguistic

requirements, if applicable, are taken into consideration to make the appointment.
[My emphasis.]

[7] The respondent also notes that, in support of his decision, the sergeant responsible for appointments cited section 8 of the Regulations, which permits departure from the seniority principle if the Commissioner “directs otherwise”. In the opinion of the sergeant responsible for appointments, the Commissioner “directs otherwise” through part 4.E.9 of the Manual by setting out a merit-based criterion rather than a seniority criterion. Moreover, the sergeant responsible for appointments was of the opinion that nothing in the Act or Regulations required the Commissioner to proceed by making a rule or standing order.

A. *Adjudicator’s decision*

[8] The appellant’s three grievances were rejected by the RCMP’s level I grievance adjudicator on August 30, 2010. The level II adjudicator – the final level – confirmed that decision on August 20, 2013. It is the decision of the level II adjudicator (the adjudicator) that is at issue.

[9] Rejecting the appellant’s claims, the adjudicator concluded that in order to depart from the seniority principle, section 8 of the Regulations does not require the enactment of a “rule” or “standing order” by the Commissioner, because that provision simply states that the Commissioner must “direct otherwise.” The adjudicator noted that the concept of “standing order” is defined in subsection 2(2) of the Act as a permanent rule made under the Act. The adjudicator also noted that the Act distinguishes between cases where the Commissioner must make a “rule” or “standing order” and where the Commissioner must make “orders”.

[10] On the matter of illegal sub-delegation, the adjudicator referred to part 4.E.9 of the Manual and noted in a general manner that policies in RCMP manuals are “issued by designated officers as authorized by the Commissioner” (foreword of the Administration Manual, see Appeal Book, vol. II, tab 12, at page 53). The adjudicator also noted that amendments to these policies must be approved by the Senior Executive Committee, a committee of which the Commissioner is a member (art. 1.4.1 of the Administration Manual, c. III.4, Appeal Book, vol. II, tab 13, at page 56). Therefore, the adjudicator concluded that part 4.E.9 of the Manual was established on the basis of the Commissioner’s “orders” in accordance with section 8 of the Regulations and thus that the Commissioner did “direct otherwise” that the appointments to fill the acting positions in question could be granted based on the principle of merit set out in part 4.E.9 of the Manual rather than on seniority.

B. *The judge’s decision*

[11] The judge, reviewing the adjudicator’s decision, identifies the standard of review applicable to the adjudicator’s decision as that of reasonableness, because the issues in dispute pertain to the interpretation of the RCMP’s applicable internal laws, regulations and policies and are directly within the adjudicator’s expertise. However, he identifies that correctness is the standard of review applicable to the question of illegal delegation.

[12] The judge then analyzes the meaning of the word “order” in section 8 of the Regulations. According to the judge, the adjudicator reasonably decided that part 4.E.9 of the Manual is mandatory in nature and sufficient to constitute an “order” by the Commissioner and permits departure from the seniority principle within the meaning of section 8 of the Regulations. The

judge also notes that the broad powers to delegate granted to the Commissioner under section 5 of the Act show that Parliament is sensitive to the Commissioner's administrative burden and that it would be contrary to the purpose of the Act to interpret the Regulations in such a way as to make the Commissioner's workload even more burdensome (judge's reasons at paragraph 51).

[13] The judge also mentions that neither the Act nor the Regulations define the word "order". He therefore turns to the ordinary sense of the words used in section 8 in the two official versions of the Regulations ("directs" and "direction" in English and "ordre" and "ordonne" in French), which gives a mandatory nature to the measure taken by the Commissioner.

[14] Endorsing the adjudicator's analysis, the judge reiterates that part 4.E.9 of the Manual "constitute[s] advance official approval of the actions that employees are to take under stated circumstances" and that such actions are established "as authorized by the Commissioner" (judge's reasons at paragraph 56). The judge thus concludes that an RCMP member would not consider the merit criterion in part 4.E.9 of the Manual as optional. On that basis, the judge decides that part 4.E.9 of the Manual is mandatory in nature and sufficient to constitute an "order" within the meaning of section 8 of the Regulations.

[15] Lastly, with regard to illegal delegation, since the judge is of the opinion that it is the Commissioner who "directs otherwise" within the meaning of section 8 of the Regulations on the basis of part 4.E.9 of the Manual, he concludes that there cannot be an illegal delegation because the Commissioner is exercising his power directly.

III. Issues

[16] This case raises the following issues:

1. Did the adjudicator err in concluding that section 8 of the Regulations permits the Commissioner to depart from the seniority principle on the basis of part 4.E.9 of the Manual rather than by making a rule or standing order?
2. Does the adjudicator's interpretation of the Regulations give rise to an illegal delegation by the Commissioner?

IV. Analysis

A. *Standard of review*

[17] In an appeal from a judgment issued in the context of a judicial review, this Court ascertains that the trial judge correctly identified the applicable standard of review and applied it appropriately. In its analysis, this Court is therefore placing itself in the position of the trial judge in order to review the administrative decision at issue (*Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36, [2013] 2 S.C.R. 559, at paragraphs 45 and 46; *Wilson v. Atomic Energy of Canada Limited*, 2015 FCA 17, [2015] 4 F.C.R. 467, at paragraph 42).

[18] In this case, I agree with the judge that this case bears, mostly, on the interpretation of the applicable internal laws, regulations and policies of the RCMP, more specifically the meaning of the phrase "directs otherwise" within section 8 of the Regulations. Such a matter of interpretation falls directly within the adjudicator's expertise and is reviewable on the standard of reasonableness (*Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190, at paragraphs 45 and 46 [*Dunsmuir*]). However, unlike the judge, I am of the opinion that the

question of illegal delegation is of mixed fact and law and is also subject to the reasonableness standard of review (*Dunsmuir*).

B. *Preliminary comment on the Regulations at issue*

[19] By adopting section 8 of the Regulations, the Governor in Council provided that seniority would prevail unless the Commissioner “directs otherwise”. The parties are asking this Court to rule on the interpretation and meaning of the words “directs otherwise” in section 8 of the Regulations.

[20] The heading for section 8 of the Regulations confirms that it applies to acting command posts. In the words of the respondent’s attorney at the hearing, the appellant’s grievances were not filed with regard to such a post. It follows that the appellant could not invoke section 8 of the Regulations to argue that the member with the most seniority must be appointed because the positions he desired are supposedly not command posts. If that is the case, the respondent should not have cited section 8 of the Regulations and then referenced part 4.E.9 of the Manual to justify departure from the general principle of seniority set out in section 8 of the Regulations when that section cannot, *a priori*, support the appellant’s application.

[21] Without ruling on the soundness of that argument, I note that the respondent’s argument was not raised before the arbitrators or the Judge. I also note that the appellant avoided venturing on this topic during the hearing before our Court. Regardless, it would be inopportune to consider the new argument raised by the respondent in the resolution of this case, because there

is a lack of evidence and the parties did not argue that point. Therefore, at this stage, I will address the issues raised in this appeal.

- C. *Did the adjudicator err in concluding that section 8 of the Regulations permits the Commissioner to depart from the seniority principle on the basis of part 4.E.9 of the Manual rather than by making a rule or standing order?*

[22] To address the main issue in this case, it is appropriate to first briefly examine the use of the words “rules” and “standing orders,” which the parties indiscriminately referenced during the hearing. Parliament defines “Commissioner’s standing orders” in subsection 2(2) of the Act as “rules made by the Commissioner”:

Commissioner’s standing orders

2. (2) The rules made by the Commissioner under any provision of this Act empowering the Commissioner to make rules shall be known as Commissioner’s standing orders.

Consignes du commissaire

2. (2) Les règles à caractère permanent que le commissaire établit en vertu de la présente loi sont appelées consignes du commissaire.

A Commissioner’s standing order is in fact a permanent rule made by the Commissioner, and the two terms are thus essentially synonymous. For the purposes of these reasons, and to avoid any confusion, I will use the word “rule” to reference both a permanent rule and a standing order by the Commissioner.

[23] In this case, the appellant does not question the validity of section 8 of the Regulations. Rather, he argues that under section 8 of the Regulations, the Governor in Council has adopted the principle that appointments to acting posts are based on seniority. The appellant admits that the Governor in Council authorizes the Commissioner to depart from the general rule of

seniority, but he feels that the Commissioner must exercise that power by making a rule and following the formalities associated with that means of exercising the Commissioner's powers.

In the appellant's opinion, part 4.E.9 of the Manual does not meet that requirement.

Alternatively, the appellant argues that if the Commissioner can depart from the general seniority principle by deciding on the basis of an "order," the Commissioner must do so on a "case-by-case" basis.

[24] The appellant also argues that subsection 5(2) of the Act enables the Commissioner to delegate all the Commissioner's powers, except the power to make rules. The appellant therefore claims that the Commissioner made an illegal sub-delegation by departing from the general principle of seniority set out in section 8 of the Regulations on the basis of part 4.E.9 of the Manual instead of by making a rule. Alternatively, the appellant is advancing a new argument that he pleaded before neither the adjudicator nor the judge, that is, that an interpretation of section 8 of the Regulations that would allow the Commissioner to depart from the general principle of seniority other than with a rule would be an illegal delegation of power on the part of the Governor in Council during the adoption of the Regulations because it would grant the Commissioner a power that the Governor in Council does not have under the enabling legislation.

[25] Despite the eloquent nature of submissions of the appellant's attorney, I cannot accept them.

[26] Firstly, I will reiterate that the Commissioner has extensive powers in carrying out the duties associated with the management of the RCMP and is subject only to the direction of the Minister, as set out in section 5 of the Act:

Appointment

5. (1) The Governor in Council may appoint an officer, to be known as the Commissioner of the Royal Canadian Mounted Police, who, under the direction of the Minister, has the control and management of the Force and all matters connected therewith.

Delegation

(2) The Commissioner may delegate to any member any of the Commissioner's powers, duties or functions under this Act, except the power to delegate under this subsection, the power to make rules under this Act and the powers, duties or functions under section 32 (in relation to any type of grievance prescribed pursuant to subsection 33(4)), subsections 42(4) and 43(1), section 45.16, subsection 45.19(5), section 45.26 and subsections 45.46(1) and (2).

Nomination

5. (1) Le gouverneur en conseil peut nommer un officier, appelé commissaire de la Gendarmerie royale du Canada, qui, sous la direction du ministre, a pleine autorité sur la Gendarmerie et tout ce qui s'y rapporte.

Délégation

(2) Le commissaire peut déléguer à tout membre les pouvoirs ou fonctions que lui attribue la présente loi, à l'exception du pouvoir de délégation que lui accorde le présent paragraphe, du pouvoir que lui accorde la présente loi d'établir des règles et des pouvoirs et fonctions visés à l'article 32 (relativement à toute catégorie de griefs visée dans un règlement pris en application du paragraphe 33(4)), aux paragraphes 42(4) et 43(1), à l'article 45.16, au paragraphe 45.19(5), à l'article 45.26 et aux paragraphes 45.46(1) et (2).

[27] Under section 21 of the Act, Parliament granted the Governor in Council regulatory powers to be exercised in accordance with the enabling legislation:

Regulations

21. (1) The Governor in Council may make regulations

(a) respecting the administrative discharge of members;

(b) for the organization,

Règlements

21. (1) Le gouverneur en conseil peut prendre des règlements :

a) concernant le renvoi, par mesure administrative, des membres;

b) sur l'organisation, la

training, conduct, performance of duties, discipline, efficiency, administration or good government of the Force; and

(c) generally, for carrying the purposes and provisions of this Act into effect.

formation, la conduite, l'exercice des fonctions, la discipline, l'efficacité et la bonne administration de la Gendarmerie;

c) de façon générale, sur la mise en œuvre de la présente loi.

[28] In the context of decisions related especially to the organization, training, conduct, performance of duties, discipline, efficiency, administration or good government of the Force, Parliament has also granted the Commissioner discretion under that same section, at subsection 21(2), authorizing, but not requiring, the Commissioner to make rules on one of the matters listed:

Rules

21. (2) Subject to this Act and the regulations, the Commissioner may make rules

(a) respecting the administrative discharge of members; and

(b) for the organization, training, conduct, performance of duties, discipline, efficiency, administration or good government of the Force.

[My emphasis.]

Règles

21. (2) Sous réserve des autres dispositions de la présente loi et de ses règlements, le commissaire peut établir des règles :

a) concernant le renvoi, par mesure administrative, des membres;

b) sur l'organisation, la formation, la conduite, l'exercice des fonctions, la discipline, l'efficacité et la bonne administration de la Gendarmerie.

[Je souligne]

[29] The Commissioner may therefore make rules, and Parliament specifically provided in subsection 21(2) of the Act that the Commissioner's power is exercised "subject to this Act and the regulations". The discretion to determine whether or not to act on the basis of a rule is

granted to the Commissioner by the use of the word “may” in subsection 21(2) of the Act. That discretion is subordinate to the other provisions of the Act and regulations adopted by the Governor in Council. The Governor in Council was enabled under the Act to allow the Commissioner to “direct otherwise”, that is, otherwise than by making a rule and he exercised that power by adopting section 8 of the Regulations in accordance with paragraphs 21(1)(a) and (b) of the Act. In the light of the above, the appellant’s submission that the Governor in Council illegally delegated power cannot be accepted.

[30] By adopting section 8 of the Regulations in accordance with subsection 21(1) of the Act, the Governor in Council made the seniority principle the general rule but also expressly gave the Commissioner the power to depart from that principle by providing that the Commissioner may “direct otherwise”:

8. In the absence of the person in command or the person in charge of a post, the command or charge of a post shall, unless the Commissioner directs otherwise, be exercised by the next senior regular member on staff in respect of that post as determined by the order of precedence for regular members in subsection 15(1).

[My emphasis.]

8. En l’absence de la personne qui a le commandement d’un poste ou de celle qui en a la direction, le commandement ou la direction du poste est assuré, à moins que le Commissaire n’en ordonne autrement, par le membre régulier du grade inférieur suivant, selon l’ordre de préséance des membres réguliers établi au paragraphe 15(1), qui a le plus d’ancienneté et qui est affecté à ce poste.

[Je souligne]

[31] Pursuant to the power of departure set out in section 8 of the Regulations, the Commissioner adopted part 4.E.9 of the Manual to fill the acting posts:

4.E.9. The immediate supervisor of a position being vacated will appoint, on the basis of merit, an employee to temporarily perform the duties of a vacated position. [TRANSLATION] The requirements of the position, namely linguistic requirements, if applicable, are taken into consideration to make the appointment.

[My emphasis.]

[32] The appellant admits that the Commissioner was able to derogate but argues that the Commissioner had to do so by making a “rule” rather than on the basis of part 4.E.9 of the Manual.

[33] I disagree.

[34] A careful reading of the Regulations confirms that the Commissioner must exercise powers by “rule” or “order,” as applicable. For example, the Governor in Council used the word “directs” in the following sections of the Regulations: 3, 4(1), 4(3), 5, 7, 8, 9(2), 15(1), 25(5), 62(2) and 81. However, sections 11, 15(2) and 18 of the Regulations clearly provide that the Commissioner shall exercise powers by “rule.” Similarly, several provisions of the Act clearly state that the Commissioner must or may make rules (subsections 2(3), 21(2) and sections 9.1 and 36 of the Act).

[35] It follows that if the Governor in Council had intended to require the Commissioner to depart from the seniority principle only by making a “rule,” the Governor in Council would have clearly indicated so in section 8 of the Regulations. I agree with the judge’s conclusions in paragraph 46 of his reasons:

Section 8 of the Regulations, adopted by the Governor in Council under subsection 21(1) of the *Act*, clearly provides that the seniority rule prevails in principle in cases of acting appointments, unless the Commissioner “directs” otherwise. If the Governor in Council’s objective was to force the Commissioner to act on the basis of a standing order [rule] so as to deviate from the seniority rule in acting appointments, he would not have used the term “order.”

[36] The appellant submits that the word “directs” in section 8 of the Regulations is of general application, whereas the other sections of the Regulations use the word “directs” in a specific manner. On the basis of that distinction, the appellant argues that the word “directs” must be interpreted differently in section 8 of the Regulations. According to the appellant, “directs otherwise” in section 8 of the Regulations means that the Commissioner must make a “rule,” whereas if the Commissioner “directs” under another section of the Regulations, the Commissioner is not required to do so. As a result, the appellant is asking this Court to engage in an exercise of piecemeal legislative interpretation by attributing a different meaning to the word “directs” depending on whether it is used in section 8 of the Regulations or in other sections. With respect, nothing enables me to conclude or to justify that a different meaning can be attributed to the word “directs” in the Regulations, and the appellant’s argument must therefore be rejected.

[37] The provisions at issue in this case are clear. Firstly, as the adjudicator concluded, under subsection 21(2) of the *Act*, the Commissioner may make rules regarding appointments. Secondly, by adopting section 8 of the Regulations, the Governor in Council expressly authorized the Commissioner to “direct otherwise” with regard to seniority. By adopting part 4.E.9 of the Manual, the Commissioner did “direct otherwise” and complied with section 8 of the Regulations.

[38] Lastly, the appellant argues that another possible interpretation of section 8 of the Regulations would be to read “directs otherwise” in section 8 as referring specifically to an individualized “order” given to an identified member of the RCMP. For example, according to the appellant’s interpretation, the Commissioner should communicate directly and individually on a “case-by-case” basis with the RCMP member and inform that member of the decision to “direct otherwise.” While section 8 of the Regulations does not prohibit the Commissioner from doing so, it does not require the Commissioner to do so either. The same applies to the possibility to “direct otherwise” by a rule. However, the Commissioner is not required to do so (adjudicator’s decision at paragraph 27). As previously mentioned, the Act confers extensive powers on the Commissioner with regard to the management of RCMP staff. If the Governor in Council had intended to limit the Commissioner’s power to depart from the seniority principle in certain specific cases, this would have been clearly provided. In this case, the words “directs otherwise” indicate instead that the Commissioner’s power to “direct otherwise” can be exercised in various forms, be it by a rule, an internal manual or an individual order on a “case-by-case” basis. In my opinion, these are means to “direct otherwise” that reflect the power of departure that the Governor in Council grants to the Commissioner under section 8 of the Regulations.

[39] In the light of the above, I am satisfied that the judge appropriately applied the standard of review in this case and that it was reasonable to conclude that the Governor in Council did authorize the Commissioner to exercise powers under section 8 of the Regulations by a means other than a rule, in this case on the basis of part 4.E.9 of the Manual.

D. *Does the adjudicator's interpretation of the Regulations give rise to an illegal delegation by the Commissioner?*

[40] Lastly, with regard to the argument on illegal delegation between the Commissioner and the designated officer who established part 4.E.9 of the Manual, I am of the opinion that the adjudicator's decision on this matter is reasonable and is one of the possible acceptable outcomes which are defensible in respect of the facts and law (*Dunsmuir*). Indeed, if the Commissioner approves a manual that is written in mandatory terms for RCMP members and the terms and conditions are established under the Commissioner's authorization, as is the case in this instance, the Commissioner is not delegating his or her power (adjudicator's decision at paragraphs 28-32). The judge therefore did not err in approving the adjudicator's decision and finding that "Part 4.E.9 of the [Manual] is sufficiently mandatory as to constitute an 'order' within the meaning of section 8 of the Regulations" (judge's reasons at paragraph 57).

V. Conclusion

[41] For these reasons, I would dismiss the appeal with costs.

"Richard Boivin"

J.A.

"I agree.

Johanne Trudel J.A."

"I agree.

Yves de Montigny J.A."

TRANSLATION

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-57-15

**(APPEAL OF A JUDGMENT BY THE HONORABLE MR. JUSTICE LOCKE OF THE
FEDERAL COURT OF CANADA ON JANUARY 15, 2015, DOCKET NO. T-1561-13.)**

STYLE OF CAUSE: ROBERT BEAULIEU v. THE
ATTORNEY GENERAL OF
CANADA

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: JANUARY 13, 2016

REASONS FOR JUDGMENT BY: BOIVIN J.A.

CONCURRED IN BY: TRUDEL J.A.
DE MONTIGNY J.A.

DATED: FEBRUARY 23, 2016

APPEARANCES:

Julius H. Grey
Simon Gruda-Dolbec

FOR THE APPELLANT

Marie-Josée Bertrand

FOR THE RESPONDENT

SOLICITORS OF RECORD:

GREY CASGRAIN s.e.n.c.
Montréal, Quebec

FOR THE APPELLANT

William F. Pentney
Deputy Attorney General of Canada

FOR THE RESPONDENT