

(Court File No.: T-431-16)

FEDERAL COURT

BETWEEN:

DAN PELLETIER
Plaintiff

and

HER MAJESTY THE QUEEN
Defendant

(Court seal)

PROPOSED CLASS PROCEEDING

MEMORANDUM OF FACT AND LAW

Part I: Overview and Statement of Facts

1. The Defendant's Memorandum of Fact and Law, at paragraph 1, succinctly reiterates the salient facts and chronology: On December 8, 2016, the Honourable Mr. Justice LeBlanc ordered the Statement of Claim issued on March 11, 2016, struck, and granted leave to the Plaintiff to amend his claim. Her Majesty the Queen ("Canada") now moves to strike the Amended Statement of Claim ("Amended Claim") in its entirety, without leave to amend on the basis that:

- i. a reasonable cause of action has not been properly pleaded, and
 - ii. in the alternative, on a merits basis, Canada has never participated directly or indirectly in an atmospheric aerosol spraying program.
2. The Defendant's motion to dismiss the Amended Claim should be denied in its entirety.
3. In respect of the pleaded causes of action: The allegations are accompanied by the requisite material facts disclosing each alleged cause of action, and the material facts are not speculative, nor do they constitute bald allegations.
4. In respect of the merits: The Defendant's evidence is woefully insufficient to rule on a paper record that the Government of Canada has not participated in an atmospheric aerosol spraying program. At best, the Defendant's evidence (of non-participation in an aerosol spraying program) speaks only for the direct involvement of the Department of National Defence ("DND") to the extent such involvement is known by Colonel Lew. It does not speak for any other branch of the Canadian government. It also does not speak as to whether DND, or of any other branch of the Canadian government, has *authorized* that the areal discharges be released by another, which authorization renders Canada liable as a joint tortfeasor.
5. Further, in respect of the merits, and as considered in greater detail below, the Affidavit of Bill Vander Zalm (the former 28th Premier of British Columbia) contains a March 13, 2014 fifty three page Freedom of Information Act ("FOIA") response (of the Federal Government)

which confirms the Government's high level direct participation in the consideration of solar radiation management ("SRM"), and, in particular, of discharging chemicals and particulates into the atmosphere to block a portion of the sun's rays.

6. Colonel Lew's (the HMQ affiant) evidence speaks only to the direct involvement and participation of DND to the extent that it is within his personal sphere of knowledge. It does not speak to the direct or indirect involvement of any other branch of the Canadian government, and it does not speak as to whether the DND (or any other branch of the Canadian government) has authorized the release of the aerial discharges be undertaken by another.

7. Accordingly, the Defendant's motion should be denied in its entirety. If any claim or cause of action ultimately is determined to be deficient, leave to amend the Amended Claim should be granted. If the deficiency is one that cannot be cured, that deficient portion of the claim should be severed from the larger claim, and only that deficient portion should be struck.

Part II – Points in Issue

8. Should the Defendant's motion to strike the claim be granted?
9. Should the Defendant's motion for summary judgment be granted?

Part III – Submissions

10. Simply stated, this motion turns on whether or not Canada has participated in or authorized the alleged atmospheric aerosol spraying program, and whether this is capable of proof.
11. Irrespective of whether the focal point is the pleaded causes of action or the merits, if Canada has participated in or authorized an atmospheric aerosol spraying program, then the motion to dismiss should be denied.
12. There appears to be an admission, albeit tacit, by the Government in respect of the forgoing.
13. Paragraph 10 of the Defendant's Notice of Motion (page 2 of the Defendant's motion record) states, *inter alia*, under "THE GROUNDS FOR THE MOTION":

Neither the Canadian Military nor any other arm of government has ever knowingly or negligently released any 'Aerial Discharges' into the atmosphere above southern Alberta or anywhere in Canada. **Canada has never had any involvement in any of the alleged activities discussed in this claim.** [Emphasis added]

14. At paragraph 51 of the Defendant's Memorandum of Fact and Law, the Defendant states, in relevant part:

The question for this Court on summary judgment is: Has **Canada** engaged in the aerial discharges as alleged. This single issue, if resolved, is dispositive of the entirety of the proposed class action. [Emphasis added]

15. Paragraph 52 of the Defendant's Memorandum of Fact and Law states:

Canada has not engaged in aerial discharges of any chemicals over Didsbury, Alberta.

Canada is not and has never been involved in a joint US-Canada military operation entitled 'Project Cloverleaf', or any such similar projects, as alleged. [Emphasis added]

16. To substantiate the above assertion, the Government cites in footnote 32 of its Memorandum of Fact and Law, "Affidavit of X, sworn September X, 2017." Arguably an oversight, however, in the result, this is correct as Colonel Lew's affidavit specifically only testifies to the DND and no other branch of the Canadian government.

17. The Government fails to adduce any evidence in respect of any other branch of the Government other than the DND, nor does it adduce any evidence that the DND (or any other branch of the Canadian government) did not authorize the aerial spraying to be undertaken by another. The core of the Government's evidence is limited specifically to the DND and to its direct active engagement. Please see paragraphs 4, 5, 6, and 7, of the Colonel Lew affidavit (page 6 of the Defendant's motion record).

18. Further, as explicated and quoted below, the Affidavit of Mr. Vander Zalm contains a lengthy FOIA response which delineates Canada's direct involvement in the study of SRM, including the spraying into the atmosphere of chemicals and particulates. Approximately 15% to 20% of the FOIA response is redacted. The Plaintiff will request during the cross-examination of Colonel Lew that the Government undertake to provide the redacted portions of the FOIA response and, thus, make part of the record. Contextually, the redactions appear to contain sensitive information associated with the experimentation and roll out of an SRM program, with geoengineering and with climate modification more broadly.

The Plaintiff has Adequately Pleaded all of the Requisite Elements of One or more Viable Causes of Action.

19. In order to survive a motion to strike, a statement of claim:

must contain allegations of material facts sufficient to support a viable cause of action: [Federal Courts Rules, S.O.R./ 98-106, Rule 174](#). Plaintiffs need not plead the particular legal label associated with a cause of action: [Rule 175](#); see also *Cahoon v. Franks*, [1967 CanLII 77 \(SCC\)](#), [1967] S.C.R. 455 at pages 458-459.¹ Similarly, plaintiffs who choose to use a particular legal label are not struck out just because they chose the wrong label: *Sivak v. Canada*, [2012 FC 272 \(CanLII\)](#), 406 F.T.R. 115² at paragraph 20; *J2 Global Communications Inc. v.*

¹ Tab 1 of the Plaintiff's Book of Authorities.

² Tab 2 of the Defendant's Book of Authorities.

Protus IP Solutions Inc., [2008 FC 759\(CanLII\)](#), 330 F.T.R. 176³ at paragraphs 33-36; *Johnson & Johnson Inc. v. Boston Scientific Ltd.*, [2004 FC 1672 \(CanLII\)](#), [2005] 4 F.C.R. 110⁴ at paragraph 54.

Instead, **on a motion to strike, it is necessary that one focus on whether the allegations of material facts in the claim, construed generously, give rise to a cause of action**: *Conohan v. Cooperators*, [2002 FCA 60 \(CanLII\)](#), [2002] 3 F.C. 421⁵ at paragraph 15. This means any cause of action [emphasis added]: *Imperial Tobacco*, above at paragraph 21; *Hunt v. Carey Canada Inc.*, [1990 CanLII 90 \(SCC\)](#), [1990] 2 S.C.R. 959⁶ at pages 979-80, 74 D.L.R. (4th) 321; *Operation Dismantle Inc. v. The Queen*, [1985 CanLII 74 \(SCC\)](#), [1985] 1 S.C.R. 441⁷ at pages 486-87, 18 D.L.R. (4th) 481. *Sometimes the pleading gives rise to more than one cause of action. It all depends on the substance of the pleading, not the labels.* As Lord Denning M.R. explained in *In re Vandervell's Trusts (No. 2)*, [1974] Ch. 269 at pages 321-22 (C.A.):

It is sufficient for the pleader to state the material facts. He need not state the legal result. If, for convenience, he does so, he is not bound

³ Tab 2 of the Plaintiff's Book of Authorities.

⁴ Tab 3 of the Plaintiff's Book of Authorities.

⁵ Tab 4 of the Plaintiff's Book of Authorities.

⁶ Tab 5 of the Plaintiff's Book of Authorities.

⁷ Tab 10 of the Defendant's Book of Authorities.

by, or limited to what he has stated. He can present, in argument, any legal consequence of which the facts present.”⁸

[Emphasis added]

20. The Plaintiff respectfully submits that a material fact should not constitute a bald allegation, or a speculation, where the fact is one that is logically inferred from the magnitude of the activity in question, from the governing legal framework, and from confirmed involvement by the Defendant in activities that are intimately related to, the facts that are alleged.

21. The Plaintiff at paragraph 12 of the Amended Claim⁹ pleads, amongst other, that Canada (defined to include the Federal government, including its departments and ministries) jointly with others participates in, has contracted for, or has **authorized** the release of the Aerial Discharges into Canadian airspace.

22. Where Canada together with any other party engages in, contracts for or authorizes the release of the Aerial Discharges, Canada constitutes a joint tortfeasor, and liability attaches thereto.

⁸ *Paradis Honey Ltd. v. Canada*, [2016] 1 FCR 446, 2015 FCA 89 (CanLII), at paragraph 113.- 114. Tab 6 of the Plaintiff’s Book of Authorities.

⁹ Defendant’s Motion Record, Tab 4, page 45.

Canada has Exclusive Jurisdiction for National Defence, and for the Safe and Efficient use of Canadian Air Space

23. Canada has exclusive jurisdiction to oversee and regulate all matters dealing with national defence,¹⁰ and with the safe and efficient use of Canadian air space.¹¹
24. Canada has enacted various Acts to govern, administer, and discharge the duties imposed upon it under the *Constitution Act 1867*.
25. In respect of the defence of Canada, Canada has enacted the *National Defence Act* (RSC 1985, c N-5). Pursuant to section 4 of the *National Defence Act*, the Minister of National Defence is tasked with the management and direction of the Canadian Forces and with all matters relating to national defence.¹²
26. In respect of the regulation of the safe and efficient use of Canadian air space, including the safety and security of air passengers, aircraft and of Canadian airports and aviation facilities, Canada has enacted the *Canada Transportation Act* (S.C. 1996, c. 10), and the *Aeronautics Act* (R.S.C. 1985, c. A-2). Pursuant to section 4.2 of the *Aeronautics Act*, the Minister is tasked with the “development and regulation of aeronautics and the supervision of all matters connected with aeronautics”.

¹⁰ Affidavit of Col. Ning Lew - paragraph 3.

¹¹ with the possible exception of activities exclusively involving intra-provincial air space. *Constitution Act 1867* sections 91 and 92.

¹² *Supra* note 2.

27. The activities that are the subject of the Amended Claim are extra-provincial, that is, national and international in scope¹³ and they are occurring on a (near) daily basis.¹⁴ Regulatory jurisdiction lies therefore with Canada.

Canada is directly participating in a co-ordinated international program to better understand the unintended consequences of injecting aerosols and particulates into the atmosphere

28. Scientists at Environment Canada's Canadian Centre for Climate Modelling and Analysis are intimately engaged and a part of a coordinated international climate modelling experiment; the "Geo-Engineering Model Intercomparison Project (GEOMIP)" which is aimed at improving the understanding of the efficacy and unintended consequences of solar radiation management (SRM), and of injecting aerosol and minute particulate matter into the atmosphere, to reflect a portion of the sun's rays.¹⁵

¹³ Affidavit of Bill Vander Zalm – Exhibit A at page 49 of the affidavit (redacted response to question 6¹³) and Exhibit A at page 41 of the affidavit, wherein it is confirmed that scientists at Environment Canada's Canadian Centre for Climate Modelling and Analysis are actively engaged in a coordinated international climate modelling experiment; the Geo-Engineering Model Intercomparison Project (GEOMIP) which is aimed at improving the understanding of the efficacy and unintended consequences of solar radiation management (SRM). Affidavit of Tony Vacca – Exhibit B containing scientific, peer reviewed journal articles documenting the international scope of the activities that are alleged;

¹⁴ Affidavit of Dan Pelletier, paragraph 3, page 2. Affidavit of Tony Vacca, and in particular, Exhibit A of such affidavit.

¹⁵ Affidavit of Bill Vander Zalm – Exhibit A at page 41 of the affidavit.

Canada is engaging in the alleged conduct directly, or it has contracted for or authorized that the alleged activities be undertaken, which renders Canada a joint tortfeasor.

29. Since Canada is responsible for the defence of Canada, and for the regulation and oversight of Canadian airspace, to ensure the safe and efficient use of same, the proposition that Canada is directly participating in a (near) daily, cross-Canada program to seed the atmosphere with toxic chemicals and particulates is not mere speculation or bald allegation. Rather, it is a logical, reasoned and common-sense inference which is strongly suggested by the magnitude of the operation (i.e. near daily, cross Canada), by the governing legal framework, and by Canada's direct and intimate participation in international working groups (GEOMIP) designed to assess and better understand the implications of injecting aerosols and particulates into the atmosphere, to block a portion of the sun's rays.
30. Even where Canada is not itself directly engaging in the activity, but where Canada aids, abets, encourages or authorizes the tortious conduct of another, or where Canada is merely present as a conspirator in the wrong that is done, Canada is, in law, a joint tortfeasor.¹⁶
31. As such the proposition that Canada directly participates in, aids or abets, or has authorized the (near) daily, cross-Canada atmospheric seeding of toxic chemicals and particulates is not mere speculation or bald allegation. It rather is logically inferred from the magnitude of the

¹⁶ *Anmore Development Corp. v. The City of Burnaby et. al.*, 2005 BCSC 1477 (CanLII), at paragraphs 122 and 123, Tab 7 of the Plaintiff's Book of Authorities. Also see *Barnstead v. Ramsay*, [1996] B.C.J. No. 970 (S.C.), Tab 8 of the Plaintiff's Book of Authorities; and *Horseshoe Bay Retirement Society v. S.I.F. Development Corp. et. al.* (1990), [1990 CanLII 8047 \(BC SC\)](#), 66 D.L.R. (4th) 42 (B.C.S.C.), Tab 9 of the Plaintiff's Book of Authorities.

operation, from Canada's direct involvement in other, intimately related international initiatives (GEOMIP), and by the governing legal framework.

The Alleged Torts have been Appropriately Pleaded

32. At paragraphs 38 and 39 of its Memorandum of Fact and Law, the Defendant suggests the Plaintiff lacks standing to bring a claim in nuisance, on the basis that Plaintiff has pleaded a public nuisance, for which the Plaintiff lacks standing, since Plaintiff did not suffer 'special' damage in respect of the public nuisance.

33. The Plaintiff respectfully submits that the Defendant has incorrectly stated the law on the issue, and the Plaintiff cites *The Law of Nuisance in Canada* [Second Edition], at pages 43-44, wherein the author directly considers and addresses the confusion that has arisen on the distinction between a public nuisance, and a widespread private nuisance, and in which the author provides the following clarifying comment.

. . . an unfortunate confusion has developed because of the view that public nuisance may arise either : (1) from damage to or interference with public rights ("common interests"); and (2) from widespread damage or interference to an occupier's use and enjoyment of his land ("private interests combined"). Despite some creditable authority for the latter proposition [footnote 43], it is respectfully submitted that this is an erroneous conception of the tort and that **only (1) is truly "public nuisance". The cases caught in (2) are not public nuisances, but**

widespread private nuisances and ought to be treated as such. [footnote 44].”¹⁷

[Emphasis added]

34. We respectfully submit, therefore, that the claim in nuisance is a claim that is good at law.

35. With respect to the Defendant’s comments in respect of trespass, we respectfully submit that the claim is appropriately pleaded.

36. The tort of trespass involves a ‘direct interference with another’s land, person or goods.’

Ultimately the motivation for the alleged trespass (i.e. *potentially* for non-consensual biological experimentation etc.) is not an essential element of the tort, though motivation can be supportive. What is required is that the chemicals and particulates that are the subject of the alleged discharges settle directly (as opposed to indirectly) upon the Plaintiff’s land, or even that aircraft and the aerial discharges unreasonably restricts the enjoyment of the airspace above the Plaintiff’s land.¹⁸

37. Here what is alleged or a natural corollary of the allegations is that the particulates in question are settling directly upon the Plaintiff’s land, and also obstructing the airspace above

¹⁷ Pun, Gregory S., Hall, Margaret I., Knapp, Ian M. “The Law of Nuisance in Canada [Second Edition]”, LexisNexis Canada Inc., 2015, Tab 10 of the Plaintiff’s Book of Authorities.

¹⁸ *Lewvest Ltd. v. Scotia Towers Ltd.* (1981), 126 DLR (3d) 239 (Nfld. T.D.), Tab 11 of the Plaintiff’s Book of Authorities; *Didow v. Alberta Power Ltd.* [1988] 5 W. W.R. 606 (Alta C.A.), Tab 12 of the Plaintiff’s Book of Authorities.

his property in a way that unduly restricts the enjoyment of the Plaintiff's land. The claim for trespass therefore is also adequately pleaded and a good claim, at law.

Chapter 7 to the Charter: Principles of Fundamental Justice that have been Breached

38. The Plaintiff respectfully submits that Canada's conduct and involvement in the Aerial Discharges violates each of the following principles of fundamental justice: Arbitrariness, Gross Disproportionality, Overbreadth and Shock the Conscience.¹⁹

Support for the Motivations for the Alleged Aerial Discharges

39. At paragraph 34 of Defendant Memorandum of Fact and Law, Defendant claims that Plaintiffs assertions as to possible motivations are purely speculative in nature.

40. While the objectives behind the release of the aerial discharges (and which aerial discharges are not necessarily comprised of uniform or consistent formulas of chemicals and particulates, but rather can vary) are potentially varied, certain of the objectives (i.e. weather control, mind control), and the need for such chemicals and particulates to be deployed to achieve such objectives, have been convincingly documented, in 'main stream' (i.e.

¹⁹ Mendes, Erro and Beaulac, Stephane "Canadian Charter of Rights and Freedoms" 5th Edition, LexisNexis Canada Inc., 2013 at pages 681 to 686 inclusive for a succinct overview, Tab 13 of the Plaintiff's Book of Authorities.

“traditional”) media,²⁰ in print,²¹ and in more progressive (i.e. independent) media, and are evidenced by numerous patents in the area.

Non-consensual biological experimentation also has clear and well documented past precedent of having occurred in Canada

41. At paragraph 26 of its Memorandum of Fact and Law, the Defendant highlights that the Plaintiff provides no support for ‘clear and well documented past precedent of such type of non-consensual activity in Canada’.

42. On this point we refer to non-consensual mind control and brain washing experiments undertaken at Allen Memorial Institute in Montreal, whereby unsuspecting citizens were made to participate in such experimentations without their knowledge, authorization or consent, and in respect of which Canada has been ‘quietly’ settling claims. The issue has and continues to be extensively considered by the Canadian Broadcasting Corporation (“CBC”),²² and by other media.²³

²⁰ "That's Impossible!" Weather Warfare (TV Episode 2009) - A&E Networks, from the 17 minute mark with aerial discharges being specifically contemplated at the 27 minute mark. We encourage Counsel for the Defendant and for the court to consider this episode.

<https://archive.org/details/HistoryChannelsThatsImpossibleWeatherWarfare>

²¹ Dr. Nick Begich and Jeanne Manning, “Angels Don’t Play this HAARP: Advances in Tesla Technology” 1995 Earth Pulse Press.

²² “Federal government quietly compensates daughter of brainwashing experiments victim” CBC News, posted October 27, 2017 <http://www.cbc.ca/news/politics/cia-brainwashing-allanmemorial-mentalhealth-1.4373590>

²³ “MK-ULTRAViolence Or, how McGill pioneered psychological torture” The McGill Daily, September 6, 2012 <http://www.mcgilltribune.com/mind-control-mcgill-mk-ultra/>

“Declassified: Mind Control at McGill” The McGill Tribune- <https://www.mcgilldaily.com/2012/09/mk-ultraviolence/>

Failure of Provincial Environmental Monitoring Agencies to Identify and to Alert as to the existence of the Airborne Contaminants

43. Canadian provincial environmental monitoring agencies have to our knowledge failed to identify or to alert the Canadian public as to the ongoing existence of these toxic and dangerous airborne contaminants.

44. The potential reasons for this reckless and inexcusable failure is persuasively probed in the recent, European based, 2016 independent, multi-award winning²⁴ documentary ‘Overcast’²⁵. We respectfully encourage Defendant counsel and the Court to view this documentary.

Conclusion:

45. The Plaintiff respectfully submits that:

- a. He has adequately pleaded reasonable causes of action.
- b. The Defendant’s evidence denying involvement in an atmospheric aerosol program is meaningfully inadequate, as it arguably, only covers the direct participation of the DND, and specifically excludes any denial or other testimony

²⁴ The documentary has been awarded numerous accolades, including the 2016 Humanitarian Award – Award of Distinction, and the 2016 Diamond Award – California Film Awards, amongst many others.

²⁵ Available at: <https://www.overcast-the-movie.com/> and at <https://www.youtube.com/watch?v=FUbp7dMVoww>

relative the authorizing of such conduct, or to any other branch of the Canadian Government.

- c. Even if the Government's testimony did cover other branches of the Canadian government (which it does not), on the balance of probabilities any such potential evidence (which has not been adduced) is or would be contradicted by the FOIA response appended to the affidavit of Mr. Vander Zalm which clearly documents Canada's careful study and experimentation with SRM or an aerial aerosol spraying program. This is not 'science fiction' as alleged by Canada, rather it appears to be a carefully considered reality.
- d. The Plaintiff's allegations are, thus, grounded in reality and more importantly are capable of proof.
- e. Accordingly, this matter should proceed to be adjudicated on the merits, and the Defendant's motion should be dismissed.

Part IV - Orders Sought:

- 46. An Order dismissing the Defendant's motion.
- 47. If any portion of the Plaintiff's Amended claim is struck, leave to Amend.
- 48. Any other relief that this Honourable Court deems just and appropriate.
- 49. Costs fixed on an appropriate scale.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated at Toronto this February 14, 2018.

Crane LLP

Henry Juroviesky
LSUC # 53233S
hj@juroviesky.com
Tel: (416) 481-0718 x.324
Fax: (416) 352-1378
Email: hj@cranellp.com
469 Lawrence Ave., West
Toronto, Ontario
M5M 1C6

Henry Juroviesky
Signature

Lawyer for the Plaintiff

TO: The Administrator
Registry of the Federal Courts
Federal Court of Canada
180 Queen Street West
Suite 200
Toronto, Ontario
M5V 3L6
Tel: (416) 973-3356
Fax: (416) 954-5068

**AND TO: Victor J. Paolone
Jacob Pollice**

Litigation Counsel / Avocat
Public Safety and Defence | Sécurité publique et défense
Department of Justice Canada | Ministère de la Justice Canada
Ontario Regional Office | Bureau régional de l'Ontario
130 King Street West
Toronto, ON M5X 1K6

tel: (416) 973-9271
fax: (416) 952-8437
victor.paolone@justice.gc.ca
Jacob.Pollice@justice.gc.ca

Lawyers for HMQ

Part V – List of Authorities

1. *Cahoon v. Franks*, 1967 CanLII 77 (SCC), [1967] S.C.R. 455 at pages 458-459.
2. *J2 Global Communications Inc. v. Protus IP Solutions Inc.*, 2008 FC 759(CanLII), 330 F.T.R. 176 at paragraphs 33-36.
3. *Johnson & Johnson Inc. v. Boston Scientific Ltd.*, 2004 FC 1672 (CanLII), [2005] 4 F.C.R. 110 at paragraph 54.
4. *Conohan v. Cooperators*, 2002 FCA 60 (CanLII), [2002] 3 F.C. 421 at paragraph 15.
5. *Hunt v. Carey Canada Inc.*, 1990 CanLII 90 (SCC), [1990] 2 S.C.R. 959 at pages 979-80, 74 D.L.R. (4th) 321.
6. *Paradis Honey Ltd. v. Canada*, [2016] 1 FCR 446, 2015 FCA 89 (CanLII), at paragraph 113.- 114.
7. *Anmore Development Corp. v. The City of Burnaby et al*, 2005 BCSC 1477 (CanLII), at paragraphs 122 and 123.
8. *Barnstead v. Ramsay*, [1996] B.C.J. No. 970 (S.C.) at paragraphs 14, 16, 17 and 19.
9. *Horseshoe Bay Retirement Society v. S.I.F. Development Corp. et al* (1990), 1990 CanLII 8047 (BC SC), 66 D.L.R. (4th) 42 (B.C.S.C.) at pages 6-8.
10. *Pun, Gregory S., Hall, Margaret I., Knapp, Ian M.* “*The Law of Nuisance in Canada [Second Edition]*”, Lexis Canada Inc., 2015, at pages 43-44.
11. *Lewvest Ltd. V. Scotia Towers Ltd.* (1981), 126 DLR (3d) 239 (Nfld. T.D.)at paragraphs 7,9,12 and 16.
12. *Didow v. Alberta Power Ltd.* [1988] 5 W.W.R. 606 (Alta C.A.) paragraphs 6,8,19 and 24.
13. *Mendes, Erro and Beaulac, Stephane* “*Canadian Charter of Rights and Freedoms*” 5th Edition, LexisNexis Canada Inc., 2013 at pages 681 to 686.

Appendix A – Statutes and Regulations

- 1) National Defence Act, RSC 1985, c N-5, Section 4.
- 2) The Constitution Act, 1867, 30 & 31 Vict, c 3, Sections 91 and 92.

National Defence Act, RSC 1985, c N-5, Section 4.

Minister
Duties

4 The Minister holds office during pleasure, has the management and direction of the Canadian Forces and of all matters relating to national defence and is responsible for

(a) the construction and maintenance of all defence establishments and works for the defence of Canada; and

(b) research relating to the defence of Canada and to the development of and improvements in materiel.

R.S., 1985, c. N-5, s. 4; R.S., 1985, c. 6 (4th Supp.), s. 10.

The Constitution Act, 1867, 30 & 31 Vict, c 3, Sections 91 and 92.

91.

It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,

1.

Repealed.

1A.

The Public Debt and Property.

2.

The Regulation of Trade and Commerce.

2A.

Unemployment insurance.

3.

The raising of Money by any Mode or System of Taxation.

4.

The borrowing of Money on the Public Credit.

5.

Postal Service.

6.

The Census and Statistics.

7.

Militia, Military and Naval Service, and Defence.

8.

The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada.

9.

Beacons, Buoys, Lighthouses, and Sable Island.

10.

Navigation and Shipping.

11.

Quarantine and the Establishment and Maintenance of Marine Hospitals.

12.

Sea Coast and Inland Fisheries.

13.

Ferries between a Province and any British or Foreign Country or between Two Provinces.

14.

Currency and Coinage.

15.

Banking, Incorporation of Banks, and the Issue of Paper Money.

16.

Savings Banks.

17.

Weights and Measures.

18.

Bills of Exchange and Promissory Notes.

19.

Interest.

20.

Legal Tender.

21.

Bankruptcy and Insolvency.

22.

Patents of Invention and Discovery.

23.

Copyrights.

24.

Indians, and Lands reserved for the Indians.

25.

Naturalization and Aliens.

26.

Marriage and Divorce.

27.

The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.

28.

The Establishment, Maintenance, and Management of Penitentiaries.

29.

Such Classes of Subjects as are expressly excepted in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any Matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private Nature comprised in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

EXCLUSIVE POWERS OF PROVINCIAL LEGISLATURES

92.

In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,

1.

Repealed.

2.

Direct Taxation within the Province in order to the raising of a Revenue for Provincial Purposes.

3.

The borrowing of Money on the sole Credit of the Province

4.

The Establishment and Tenure of Provincial Offices and the Appointment and Payment of Provincial Officers.

5.

The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon.

6.

The Establishment, Maintenance, and Management of Public and Reformatory Prisons in and for the Province.

7.

The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals.

8.

Municipal Institutions in the Province.

9.

Shop, Saloon, Tavern, Auctioneer, and other Licences in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.

10.

Local Works and Undertakings other than such as are of the following Classes:

(a)

Lines of Steam or other Ships, Railways, Canals, Telegraphs, and other Works and Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province:

(b)

Lines of Steam Ships between the Province and any British or Foreign Country:

(c)

Such Works as, although wholly situate within the Province, are before or after their Execution declared by the Parliament of Canada to be for the general Advantage of Canada or for the Advantage of Two or more of the Provinces.

11.

The Incorporation of Companies with Provincial Objects.

12.

The Solemnization of Marriage in the Province.

13.

Property and Civil Rights in the Province.

14.

The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.

15.

The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section.

16.

Generally all Matters of a merely local or private Nature in the Province.