

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE FEDERAL COURT OF APPEAL)

B E T W E E N :

CORPORATION OF THE CITY OF WINDSOR

Appellant
(Respondent)

- and -

CANADIAN TRANSIT COMPANY

Respondent
(Appellant)

– and –

**ATTORNEY GENERAL OF CANADA,
FEDERATION OF CANADIAN MUNICIPALITIES**

Interveners

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PART I – OVERVIEW AND FACTS

A. OVERVIEW

1. The Federal Court has the authority to decide all aspects of a dispute, including constitutional questions, where on the face of the pleadings the Federal Court has the subject-matter jurisdiction to decide it. This includes cases where the Federal Court is required to determine the constitutional validity or applicability of a federal statute or regulation, or to apply constitutional doctrines and principles when interpreting and applying federal laws.
2. Recognizing the Federal Court’s concurrent jurisdiction to apply the Constitution in the context of valid federal legislation is consistent with the rule of law and provides certainty to litigants. It accords with this Court’s jurisprudence, is consonant with the division of powers, and does not detract from the central role played by the superior courts.
3. This case is about a federal statute – the *Act to Incorporate the Canadian Transit Company*¹ (the *CTC Special Act*), and the application of this Court’s long-established ITO test² to the claims made by the respondent. The grant of jurisdiction to the Federal Court was based on section 23(c) of the *Federal Courts Act* and the broad definition of “relief” contained in section 2 of that statute. Once the Court of Appeal reached this conclusion, there was no need for it to address whether the *Constitution Acts* are “laws of Canada” within the meaning of section 101 of the *Constitution Act, 1867*. If this Court decides to address this issue, it should conclude that section 101 encompasses laws enacted by Parliament and federal common law, not the Constitution, as it has held in previous cases.

¹ (1921) 11-12 Geo V, c 57, Exhibit “1” of the Affidavit of Dan Stamper, sworn Nov. 15, 2013, **Appellant’s Record, Vol III, Tab 11a, p 15**.

² *ITO-Int’l Terminal Operators v Miida Electronics*, [1986] 1 SCR 752 at 766 (*ITO*), **Book of Authorities of the Respondent, the Canadian Transit Company (Resp Auth), Tab 5**.

B. SUMMARY OF THE FACTS

4. The Attorney General of Canada (Canada) relies on the facts as set out in the *facta* of the appellant City of Windsor and the respondent The Canadian Transit Company (CTC).

PART II – ISSUES

5. Canada’s position in this appeal is that the issue of whether the Federal Court has jurisdiction over a claim should be determined at the outset of a proceeding, based on the issues raised by the claimant as framed in his or her pleadings without regard to the relative merits or weaknesses of his or her case. If the Federal Court has jurisdiction over the claim, it has jurisdiction to apply the Constitution. It was not necessary for the Court of Appeal to conclude that the *Constitution Acts* are “laws of Canada” within the meaning of section 101 of the *Constitution Act, 1867*. If this Court does decide to address this question, Canada’s position is that they are not.

PART III – ARGUMENT

A. THE ISSUE OF JURISDICTION MUST BE ADDRESSED AT THE OUTSET OF A PROCEEDING WITHOUT REGARD TO THE MERITS OF THE CLAIM

6. The term “jurisdiction” is simply shorthand for the collection of attributes that enables a court or tribunal to issue an enforceable order or judgment.³
7. Parties often disagree as to the characterization of the true nature of a given claim. At this threshold stage of establishing jurisdiction, the focus of the inquiry should be on the proceeding as pleaded by the claimant. The fact that a claimant might have made different kinds of claims or legal arguments on the same facts should not dictate the jurisdictional analysis for the claim the claimant has actually made.

³ *Canada (Attorney General) v TeleZone Inc.*, 2010 SCC 62, [2010] 3 SCR 585 at para 44 (*TeleZone*), **Book of Authorities of the Intervener, Attorney General of Canada (AGC Auth), Tab 1.**

8. For example, in *TeleZone* and its associated cases, the fact that the plaintiff might have challenged the various decisions at issue by way of judicial review in Federal Court did not detract from the superior courts' jurisdiction to consider the claims for damages that had actually been brought. If a claimant has pleaded the essential elements that meet the test for Federal Court jurisdiction, that should be sufficient to allow the Federal Court to deal with the claim.⁴
9. In determining the threshold question of jurisdiction the court should not consider the merits of the asserted claim or focus upon what the outcome of a proceeding would be if it were adjudicated on its merits. For example, in this case it may be that a court will find that the properties in question are not subject to the provisions of the *CTC Special Act*. However, this is immaterial to the initial question as to whether the claim as it has been framed meets the test for establishing Federal Court jurisdiction.
10. In any case in which the Federal Court is asked to determine the meaning, application or legal effect of a federal statute on the rights of the parties, the Court possesses the necessary jurisdiction to deal with the issues. If there is initial doubt as to whether the answers to questions about the federal statute will fully resolve the underlying dispute, this does not undermine the Federal Court's jurisdiction. It could, however (where the Federal Court's jurisdiction is concurrent), suggest that the Federal Court may not be the most appropriate forum for resolution of the issues.
11. The fact that the Federal Court may be required to apply or consider the effect of provincial law does not undermine the court's jurisdiction over a case that also depends on a federal statute. This Court recognized this uncontroversial proposition in *ITO*, when it acknowledged that the Federal Court is entitled to consider the effect of provincial law where it is incidentally necessary for the resolution of the issues before the Court.⁵ The Court should resist engaging in a quantitative evaluation of whether the provincial law component of the case outweighs the federal law component.

⁴ *Ibid* at paras 76-80.

⁵ *ITO*, *supra* at 781-2, **Resp Auth, Tab 5**.

B. THE FEDERAL COURT HAS THE AUTHORITY TO DECIDE CONSTITUTIONAL ISSUES WHERE IT OTHERWISE HAS JURISDICTION

12. In *ITO*, this Court set out a three-part test for Federal Court jurisdiction, which was properly articulated and then applied by the Court of Appeal in this case. The ITO test is set out for ease of reference:
 1. There must be a statutory grant of jurisdiction by the federal Parliament.
 2. There must be an existing body of federal law which is essential to the disposition of the case and which nourishes the statutory grant of jurisdiction.
 3. The law on which the case is based must be “a law of Canada” as the phrase is used in section 101 of the *Constitution Act, 1867*.
13. The ITO test recognizes the statutory and constitutional limitations on the Federal Court’s jurisdiction. The first branch of the test recognizes that as a statutory court, there must be a statutory grant of authority. The second and third branches, which are essentially overlapping and duplicative⁶, are a recognition that, as a court created pursuant to section 101 of the *Constitution Act, 1867* the Federal Court is established for the “better administration of the laws of Canada”, which has been judicially interpreted as requiring applicable and existing federal law, be it in the form of statute, regulation or federal common law.⁷
14. The statutory grant of jurisdiction in this case was found by the Court of Appeal in subsection 23(c) of the *Federal Courts Act* read in combination with the definition of “relief” in section 2. The Court of Appeal determined that there was federal law essential for the determination of the proceeding and sufficient for the Court to have jurisdiction, namely the *CTC Special Act* and section 20 of the *Railway Act*, which were valid exercises of federal legislative authority.⁸
15. In its application of the ITO test to this federal legislation, the Court of Appeal did not minimize the role that federal law must play in the disposition of the claim before the

⁶ *Roberts v Canada*, [1989] 1 SCR 322 at 330 (*Roberts*), **AGC Auth, Tab 8**; *Canada (Human Rights Commission) v Canadian Liberty Net*, [1998] 1 SCR 626 at para 43 (*Canadian Liberty Net*), **AGC Auth, Tab 2**.

⁷ *Quebec North Shore Paper v CP Ltd*, [1977] 2 SCR 1054 at 1065-6, **Book of Authorities of the Appellant (App Auth), Tab 23**; *Roberts, supra* at 339-340, **AGC Auth, Tab 8**.

⁸ FCA Reasons, paras 26-34 and 45-46 **Appellant’s Record, Vol I, Tab 2, pp 19-23 and 26-27**.

Court. The fact that the Notice of Application calls on the Court to interpret and apply a validly enacted federal statute is enough to meet the second (and third) branches of the ITO test.

16. Once the test for Federal Court jurisdiction as set out in *ITO* is met, the Federal Court has the authority to decide all legal questions that properly arise in the dispute, including constitutional questions. This Court stated this principle in *Northern Telecom v. Communications Workers*.⁹ Were it otherwise, the Federal Court would be in the invidious position of lacking the authority to determine the constitutional validity or applicability of federal legislation it was required to apply. As the Court of Appeal noted, the Court must engage in this exercise in assessing the third branch of the ITO test.¹⁰
17. The Federal Court’s authority encompasses the full panoply of constitutional remedies pursuant to section 24(1) of the *Charter*, and declarations of constitutional invalidity pursuant to section 52 of the *Constitution Act, 1982*. The Federal Court can grant these remedies in the context of challenges to administrative actions. The Court can also grant constitutional declarations where federal legislation is challenged directly, i.e. in the case of “bare” declarations of invalidity¹¹, provided of course that the requirements for private or public interest standing are satisfied. While such proceedings require the Court to apply the *Constitution Acts*, they are fundamentally concerned with the federal law that is being challenged, and unavoidably engage a “law of Canada” within the meaning of section 101.
18. While this Court’s judgments in *Jabour*¹² and *Paul L’Anglais*¹³ hold that Parliament lacks the constitutional authority to deprive the provincial superior courts of their inherent power to issue declarations of constitutional invalidity or inapplicability in respect of federal legislation, section 101 cannot be construed as precluding Parliament from conferring concurrent authority on the Federal Court to make such declarations in the

⁹ [1983] 1 SCR 733 at 745 (*Northern Telecom*), **App Auth, Tab 18**.

¹⁰ FCA Reasons, para 69, **Appellant’s Record, Vol I, Tab 2, p 37**.

¹¹ Also referred to as the *Dyson* declaration: *Dyson v Attorney General*, [1911] KB 410 (CA) at 418-19, **AGC Auth, Tab 5**.

¹² *Canada v Law Society of British Columbia*, [1982] 2 SCR 307 at 328-329, **AGC Auth, Tab 4**.

¹³ *Canada Labour Relations Board et al. v Paul L’Anglais Inc.*, [1983] 1 SCR 147 at 159-162, **AGC Auth, Tab 3**.

context of a federal statute. The provincial superior courts do not enjoy a monopoly on constitutional expertise.

19. Parliament has granted the Federal Court subject matter jurisdiction over certain types of cases within federal legislative authority, including claims between private litigants where a claim for relief is made under a federal statute in relation to works and undertakings connecting a province with any other province or extending beyond the limits of a province. Parliament has defined the term “relief” broadly as including “every species of relief, whether by way of damages, payment of money, injunction, *declaration*, restitution of an incorporeal right, return of land or chattels or otherwise.”¹⁴ (emphasis added)
20. There is nothing in the *Federal Courts Act* that would justify reading down the term “declaration” in the definition of “relief” as excluding *Dyson* declarations of constitutional invalidity. This Court has previously rejected adopting a narrow or strict interpretation of the jurisdiction-granting provisions of the *Federal Courts Act* in order to protect the jurisdiction of the superior courts, rather than applying a fair and liberal interpretation of these provisions.¹⁵
21. It would be anomalous if administrative tribunals were recognized as having the power to determine that legislation is constitutionally invalid and treat it as inoperable, while denying the Federal Court the same power, in view of its status as a “superior court of record having civil and criminal jurisdiction”...“established “for the better administration of the laws of Canada”, and as a “court of review and appeal that stands at the apex of all [federal] administrative decision-makers.”¹⁶

C. THE COURT OF APPEAL DID NOT NEED TO DECIDE WHETHER THE CONSTITUTION ACTS ARE “LAWS OF CANADA”

22. The Court of Appeal found that the *CTC Special Act* provided sufficient federal law to nourish the Court’s jurisdiction. Its characterization of the constitutional doctrines of paramountcy and inter-jurisdictional immunity as part of the “laws of Canada” within the

¹⁴ *Federal Courts Act*, RSC, 1985, c F-7, section 2 and subsection 23(c), **Part VII**, p 15.

¹⁵ *Canadian Liberty Net*, *supra* at paras 32-36, **AGC Auth, Tab 2**.

meaning of section 101 of the *Constitution Act, 1867*, was *obiter dicta* and unnecessary for its disposition of the appeal. The *ratio decidendi* of the Court of Appeal was that once the ITO test was met, the Court could make constitutional declarations. That was sufficient to dispose of the appeal.

23. In the event that this Court decides to squarely address this question, Canada’s position is that the term “laws of Canada” does not include the *Constitution Acts*. This conclusion is consistent with this Court’s previous jurisprudence. Moreover, the practical implications of recognizing the Federal Court as having jurisdiction to apply the Constitution in the absence of a valid federal law would be inconsistent with the judicature provisions of the *Constitution Act, 1867*.

24. This Court has held that the term “laws of Canada” in section 101 encompasses legislation enacted by Parliament pursuant to its legislative authority in section 91 of the *Constitution Act, 1867*. In *Thomas Fuller Construction*, Mr. Justice Pigeon stated:

It is settled that in s. 101 the expression “Laws of Canada” means laws enacted by Parliament.¹⁷

25. In *Northern Telecom*, Mr. Justice Estey concluded that the *Constitution Act, 1867*, was not a “law of Canada” because it was not enacted by Parliament.¹⁸ In *Paul L’Anglais*, Mr. Justice Chouinard writing for the Court held that Parliament did not have the authority to vest exclusive jurisdiction in the Federal Court to oversee federal agencies, when what was involved is the interpretation and application of the Constitution, rather than the administration of a law of Canada.¹⁹

26. The Constitution is neither federal nor provincial law. As the “supreme law of Canada” it transcends both levels of government, and belongs to neither.²⁰ The patriation of the Constitution did not render it a “law of Canada” in the sense of that term in section 101.

¹⁶ *Federal Courts Act*, section 3, **Part VII, p 15**; *Nova Scotia (Workers Compensation Board) v Martin*, [2003] SCC 54, [2003] 2 SCR 504 at para 28, **AGC Auth, Tab 6**; *Canadian Liberty Net*, *supra* at para 33, **AGC Auth, Tab 2**.

¹⁷ *R v Thomas Fuller Construction Co. (1958) Ltd.*, [1980] 1 SCR 695 at 707, **AGC Auth, Tab 7**; see also *Paul L’Anglais*, *supra* at 156-157, **AGC Auth, Tab 3**.

¹⁸ *Northern Telecom*, *supra* at 745, **App Auth, Tab 18**.

¹⁹ *Paul L’Anglais*, *supra* at 162, **AGC Auth, Tab 3**

²⁰ *Constitution Act, 1982*, section 52, **Part VII, p 14**.

27. If the *Constitution Acts* were found to be “laws of Canada”, the Federal Court would have concurrent jurisdiction to determine the constitutionality of provincial legislation, even in the absence of any applicable federal law. Recognizing the Federal Court’s jurisdiction to declare a provincial law inoperable, regardless of the application or effect of valid federal law, is inconsistent with the accepted meaning of the expression “better administration of the laws of Canada” and would elevate the Federal Court to a status not envisioned by the drafters of the *Constitution Act, 1867*.

D. THE FEDERAL COURT HAS THE DISCRETION TO DEFER TO ANOTHER FORUM

28. Where, as here, the Federal Court has concurrent jurisdiction with the provincial superior Court to issue declaratory relief in relation to federal laws, it has the discretion not to exercise that jurisdiction through the issuance of a stay of proceedings. Declaratory relief is discretionary, like the prerogative writs the Federal Court is authorized to issue under section 18 of the *Federal Courts Act*.²¹
29. In *Strickland*, this Court called for a balancing of relevant factors in assessing whether the Federal Court should decline to exercise its jurisdiction in any given case, which include the nature of the other forum which could deal with the legal issue and its remedial capacity, and the existence of adequate and effective recourse in a forum where litigation is already taking place and where the issues are already being raised, judicial economy, and cost. The category of relevant factors is not closed.²²
30. Unnecessary multiplicity of proceedings is to be discouraged. It does not serve the ends of justice if parties are permitted to bring proceedings before different courts seeking the same relief. While no request was made to have the Federal Court decline to exercise its jurisdiction in this case, the fact that the constitutional issue that arises in this case has been raised (or could be raised) in other proceedings would be a relevant consideration should such relief be sought in the future.

²¹ *Strickland v Canada (Attorney General)*, 2015 SCC 37 at para 37, **AGC Auth, Tab 9**; see also section 50, *Federal Courts Act*, RSC, 1985, c F-7, **Part VII, p 16**.

²² *Strickland*, *supra* at paras 42-43, **AGC Auth, Tab 9**.

PART IV – COSTS

31. Canada does not seek costs and asks that costs not be awarded against it.

PART V – ORDER SOUGHT

32. Canada requests that the appeal be determined in accordance with the above principles. Canada also seeks permission to address the Court at the hearing of this appeal to present the position set out herein.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated at Toronto this 6th day of April, 2016.

Sean Gaudet/Marc Ribeiro
Of Counsel for the Attorney General of Canada

PART VI – TABLE OF AUTHORITIES

Caselaw	Cited at para
<i>Canada (Attorney General) v TeleZone Inc.</i> , 2010 SCC 62, [2010] 3 SCR 585	8
<i>Canada (Human Rights Commission) v Canadian Liberty Net</i> , [1998] 1 SCR 626	13, 20, 21
<i>Canada v Law Society of British Columbia</i> , [1982] 2 SCR 307	18
<i>Dyson v Attorney General</i> , [1911] KB 410 (CA)	17, 20
<i>ITO-Int'l Terminal Operators v Miida Electronics</i> , [1986] 1 SCR 752	11, 12, 13, 15, 16, 22
<i>Northern Telecom v Communications Workers</i> , [1983] 1 SCR 733	16, 25
<i>Nova Scotia (Workers Compensation Board) v Martin</i> , [2003] SCC 54, [2003] 2 SCR 504	21
<i>Paul L'Anglais Inc. v Canada</i> , [1983] 1 SCR 147	18, 24, 25
<i>Quebec North Shore Paper v CP Ltd.</i> , [1977] 2 SCR 1054	13
<i>R v Thomas Fuller Construction Co. (1958) Ltd.</i> , [1980] 1 SCR 695	24
<i>Roberts v Canada</i> , [1989] 1 SCR 322	13
<i>Strickland v Canada (Attorney General)</i> , 2015 SCC 37, [2015] 2 SCR 713	28, 29

PART VII – LEGISLATION AT ISSUE

1. *Constitution Act*, 30 & 31 Victoria, c 3 (UK), s 101
2. *Constitution Act 1982*, being Schedule B to the *Canada Act 1982* (UK), c 11, s 52
3. *Federal Courts Act*, RSC, 1985, c F-7, s 2, 3, 23(c) and 50

Constitution Act, 30 & 31 Victoria, c 3 (UK), s 101

General Court of Appeal, etc.	Cour générale d'appel, etc.
<p>101. The Parliament of Canada may, notwithstanding anything in this Act, from Time to Time provide for the Constitution, Maintenance, and Organization of a General Court of Appeal for Canada, and for the Establishment of any additional Courts for the better Administration of the Laws of Canada. (55)</p> <p>⁽⁵⁵⁾ See the <i>Supreme Court Act</i>, R.S.C. 1985, c.S-26, the <i>Federal Courts Act</i>, R.S.C. 1985, c. F-7 and the <i>Tax Court of Canada Act</i>, R.S.C. 1985, c. T-2.</p>	<p>101. Le parlement du Canada pourra, nonobstant toute disposition contraire énoncée dans la présente loi, lorsque l'occasion le requerra, adopter des mesures à l'effet de créer, maintenir et organiser une cour générale d'appel pour le Canada, et établir des tribunaux additionnels pour la meilleure administration des lois du Canada. (55)</p> <p>⁽⁵⁵⁾ Voir la <i>Loi sur la Cour suprême</i>, L.R.C. (1985), ch. S-26, la <i>Loi sur les Cours fédérales</i>, L.R.C. (1985), ch. F-7, et la <i>Loi sur la Cour canadienne de l'impôt</i>, L.R.C. (1985), ch. T-2.</p>

Constitution Act 1982, being Schedule B to the *Canada Act 1982* (UK), c. 11, s 52

Primacy of Constitution of Canada	Primauté de la Constitution du Canada
<p>52. (1) The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.</p> <p>Constitution of Canada</p> <p>(2) The Constitution of Canada includes</p> <p>(a) the <i>Canada Act 1982</i>, including this Act;</p> <p>(b) the Acts and orders referred to in the schedule; and</p> <p>(c) any amendment to any Act or order referred to in paragraph (a) or (b).</p> <p>Amendments to Constitution of Canada</p> <p>(3) Amendments to the Constitution of Canada shall be made only in accordance with the authority contained in the Constitution of Canada.</p>	<p>52. (1) La Constitution du Canada est la loi suprême du Canada; elle rend inopérantes les dispositions incompatibles de toute autre règle de droit.</p> <p>Constitution du Canada</p> <p>(2) La Constitution du Canada comprend :</p> <p>a) la <i>Loi de 1982 sur le Canada</i>, y compris la présente loi;</p> <p>b) les textes législatifs et les décrets figurant à l'annexe;</p> <p>c) les modifications des textes législatifs et des décrets mentionnés aux alinéas a) ou b).</p> <p>Modification</p> <p>(3) La Constitution du Canada ne peut être modifiée que conformément aux pouvoirs conférés par elle.</p>

Federal Courts Act, RSC, 1985, c F-7, ss 2, 3, 23(c) and 50

<p>Definitions</p> <p>2 (1) In this Act:</p> <p><i>relief</i> includes every species of relief, whether by way of damages, payment of money, injunction, declaration, restitution of an incorporeal right, return of land or chattels or otherwise; (<i>réparation</i>)</p>	<p>Définitions</p> <p>2 (1) Les définitions qui suivent s'appliquent à la présente loi.</p> <p><i>réparation</i> Toute forme de réparation en justice, notamment par voie de dommages-intérêts, de compensation pécuniaire, d'injonction, de déclaration, de restitution de droit incorporel, de bien meuble ou immeuble. (<i>relief</i>)</p>
<p>Federal Court — Appeal Division continued</p> <p>3. The division of the Federal Court of Canada called the Federal Court — Appeal Division is continued under the name “Federal Court of Appeal” in English and “Cour d’appel fédérale” in French. It is continued as an additional court of law, equity and admiralty in and for Canada, for the better administration of the laws of Canada and as a superior court of record having civil and criminal jurisdiction.</p>	<p>Maintien : section d’appel</p> <p>3. La Section d’appel, aussi appelée la Cour d’appel ou la Cour d’appel fédérale, est maintenue et dénommée « Cour d’appel fédérale » en français et « Federal Court of Appeal » en anglais. Elle est maintenue à titre de tribunal additionnel de droit, d’équité et d’amirauté du Canada, propre à améliorer l’application du droit canadien, et continue d’être une cour supérieure d’archives ayant compétence en matière civile et pénale.</p>
<p>Bills of exchange and promissory notes — aeronautics and interprovincial works and undertakings</p> <p>23. Except to the extent that jurisdiction has been otherwise specially assigned, the Federal Court has concurrent original jurisdiction, between subject and subject as well as otherwise, in all cases in which a claim for relief is made or a remedy is sought under an Act of Parliament or otherwise in relation to any matter coming within any of the following classes of subjects:</p> <p>(a) bills of exchange and promissory notes, where the Crown is a party to the proceedings;</p> <p>(b) aeronautics; and</p> <p>(c) works and undertakings connecting a</p>	<p>Lettres de change et billets à ordre — Aéronautique et ouvrages interprovinciaux</p> <p>23. Sauf attribution spéciale de cette compétence par ailleurs, la Cour fédérale a compétence concurrente, en première instance, dans tous les cas — opposant notamment des administrés — de demande de réparation ou d’autre recours exercé sous le régime d’une loi fédérale ou d’une autre règle de droit en matière :</p> <p>a) de lettres de change et billets à ordre lorsque la Couronne est partie aux procédures;</p> <p>b) d’aéronautique;</p> <p>c) d’ouvrages reliant une province à une autre ou s’étendant au-delà des limites d’une province.</p>

<p>province with any other province or extending beyond the limits of a province.</p>	
<p>Stay of proceedings authorized</p> <p>50. (1) The Federal Court of Appeal or the Federal Court may, in its discretion, stay proceedings in any cause or matter</p> <p>(a) on the ground that the claim is being proceeded with in another court or jurisdiction; or</p> <p>(b) where for any other reason it is in the interest of justice that the proceedings be stayed.</p> <p>Stay of proceedings required</p> <p>(2) The Federal Court of Appeal or the Federal Court shall, on application of the Attorney General of Canada, stay proceedings in any cause or matter in respect of a claim against the Crown if it appears that the claimant has an action or a proceeding in respect of the same claim pending in another court against a person who, at the time when the cause of action alleged in the action or proceeding arose, was, in respect of that matter, acting so as to engage the liability of the Crown.</p> <p>Lifting of stay</p> <p>(3) A court that orders a stay under this section may subsequently, in its discretion, lift the stay.</p>	<p>Suspension d'instance</p> <p>50. (1) La Cour d'appel fédérale et la Cour fédérale ont le pouvoir discrétionnaire de suspendre les procédures dans toute affaire :</p> <p>a) au motif que la demande est en instance devant un autre tribunal;</p> <p>b) lorsque, pour quelque autre raison, l'intérêt de la justice l'exige.</p> <p>Idem</p> <p>(2) Sur demande du procureur général du Canada, la Cour d'appel fédérale ou la Cour fédérale, selon le cas, suspend les procédures dans toute affaire relative à une demande contre la Couronne s'il apparaît que le demandeur a intenté, devant un autre tribunal, une procédure relative à la même demande contre une personne qui, à la survenance du fait générateur allégué dans la procédure, agissait en l'occurrence de telle façon qu'elle engageait la responsabilité de la Couronne.</p> <p>Levée de la suspension</p> <p>(3) Le tribunal qui a ordonné la suspension peut, à son appréciation, ultérieurement la lever.</p>