

Friday, 15 December 2023

## Weekly International Law Review

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### Executive Summary (One Minute Read)

**Minnesota v Torgerson** (MINSC) - Odor of marijuana on its own without other facts did not constitute probable cause for warrantless search of vehicle

**Sharp v Autorite des marches financiers** (SCC) - In a challenge to jurisdiction, the Supreme Court held that a provincial administrative tribunal had jurisdiction over out-of-province defendants if there was a real and substantial connection between the province and the defendants

## HABEAS CANEM

McGregor wishes you a happy and peaceful holiday season



## Summaries With Link (Five Minute Read)

### **Minnesota v Torgerson 995 N.W.2d 164 (2023)**

Supreme Court of Minnesota

Gildea CJ, Anderson, & McKeig JJ

A motor vehicle was stopped by the police because it had too many lights mounted on the grill. When the driver gave his license to the police, the officer stated that he smelled marijuana emanating from the vehicle. When questioned, the driver denied possessing marijuana. After conferring with a second officer, the police ordered the driver and passengers out of the vehicle and conducted a search. In the course of the search, the police discovered a canister of what was later found to be methamphetamine. At trial, the defendant sought to suppress the evidence obtained from the vehicle search on the grounds that there did not exist requisite probable cause for the search. The trial court suppressed the evidence and dismissed the matter. This was affirmed by the Minnesota Court of Appeals. The Minnesota Supreme Court stated that both the US and Minnesota Constitutions protect against unreasonable searches and seizures. Warrantless searches are *per se* unreasonable unless one of the exceptions to the warrant requirement applies. One of these exceptions is the automobile exception which permits the police to search a vehicle without a warrant if there is probable cause to believe the search will result in the discovery of evidence. The Court said that probable cause requires more than suspicion but less than the evidence necessary for conviction. A warrantless search must be based on objective facts and not the subjective good faith of the police. The Court noted that both industrial hemp and medical cannabis were lawful in Minnesota and the possession of a small quantity of marijuana was a petty misdemeanour and not a crime. The Supreme Court stated that, while the odour of marijuana can be a fact that supports probable cause, it is insufficient on its own because of the lawful right to possess medical cannabis under certain circumstances. As there was nothing else to support probable cause, the facts were insufficient to establish a fair probability that the search would yield evidence of criminal conduct. The suppression order was affirmed.

[Minnesota](#)

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### **Sharp v Autorite des marches financiers 2023 SCC 29**

Supreme Court of Canada

Wagner CJ, Karakatsanis, Côté, Rowe, Martin, Kasirer, Jamal, & O'Bonsawin JJ

L'Autorite des marches financiers is the administrative agency in the Province of Quebec that regulates the financial and securities sectors in Quebec. The agency alleged that four residents of British Columbia engaged in a pump-and-dump securities scheme that defrauded residents of Quebec and commenced an action before the Financial Markets Administrative Tribunal in Quebec. The defendants alleged that the Tribunal did not have jurisdiction over them because they resided in British Columbia. The agency alleged a number of connections between the defendants and Quebec: the company had a Quebec address, there was a Quebec director when the scheme was implemented, the scheme was accessible to Quebec residents, and



Quebec residents lost money in the scheme. The administrative tribunal dismissed the challenge to jurisdiction and the dismissal was affirmed by both the Superior Court of Quebec and the Court of Appeal of Quebec. The Supreme Court of Canada dismissed the appeal, finding that the administrative tribunal had jurisdiction over out-of-province defendants when there exists a real and substantial connection between them and Quebec. Further, the allegations raised by L'Autorite des marches financiers that Quebec was used by the defendants as the face of their operations and the conduct injured Quebec residents established a sufficient connection to establish jurisdiction. Therefore, the action before the Financial Markets Administrative Tribunal in Quebec was allowed to go forward. Côté J (from Quebec) dissented.

[Sharp](#)

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## Poem for Friday

### **In Memoriam, (Ring out, wild bells)**

**By:** Alfred, Lord Tennyson (1809-1892)

Ring out, wild bells, to the wild sky,  
The flying cloud, the frosty light:  
The year is dying in the night;  
Ring out, wild bells, and let him die.

Ring out the old, ring in the new,  
Ring, happy bells, across the snow:  
The year is going, let him go;  
Ring out the false, ring in the true.

Ring out the grief that saps the mind  
For those that here we see no more;  
Ring out the feud of rich and poor,  
Ring in redress to all mankind.

Ring out a slowly dying cause,  
And ancient forms of party strife;  
Ring in the nobler modes of life,  
With sweeter manners, purer laws.

Ring out the want, the care, the sin,  
The faithless coldness of the times;  
Ring out, ring out my mournful rhymes  
But ring the fuller minstrel in.

Ring out false pride in place and blood,  
The civic slander and the spite;  
Ring in the love of truth and right,  
Ring in the common love of good.

Ring out old shapes of foul disease;  
Ring out the narrowing lust of gold;  
Ring out the thousand wars of old,  
Ring in the thousand years of peace.

Ring in the valiant man and free,





The larger heart, the kindlier hand;  
Ring out the darkness of the land,  
Ring in the Christ that is to be.

Alfred, Lord Tennyson was born on 6 August 1809, in Somersby, Lincolnshire, England. *Ring Out, Wild Bells*, was part of *In Memoriam*, written to Arthur Henry Hallam, who died at 22. The poem was published in 1850, the year Tennyson was appointed Poet Laureate. The poem is inspired by the English custom to have the ring of bells, muffled to ring out the old year, and then, with muffles removed, to ring in the new year. *Ring Out, Wild Bells*, has been set to music including by Charles Gounod and Percy Fletcher. Alfred, Lord Tennyson died on 6 October 1892.

**Ring Out, Wild Bells**, Gounod, sung by the Mormon Tabernacle Choir  
[https://www.youtube.com/watch?v=TVEAt8v7b\\_g](https://www.youtube.com/watch?v=TVEAt8v7b_g)

**Ring Out, Wild Bells**, from *The Passing of the Year* by Jonathan Dove, Andrew Hon, conductor, sung by the Yale Glee Club  
<https://www.youtube.com/watch?v=yPlqqvOM8Og>

Bell Ringing in the Belfry at Great St. Mary's, Cambridge  
<https://www.youtube.com/watch?v=KNMFvNZIsCM>

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