

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

**IN THE MATTER OF A REFERENCE to the Court of Appeal pursuant to section 8 of the  
*Court of Justice Act, R.S.O. 1990, c C.43, by Order-in-Council 210/2024 respecting  
permitting international play in an online provincial lottery scheme***

BETWEEN:

ATLANTIC LOTTERY CORPORATION, BRITISH COLUMBIA LOTTERY  
CORPORATION, AND MANITOBA LIQUOR AND LOTTERIES CORPORATION

Appellants  
(Interveners)

— and —

ATTORNEY GENERAL OF ONTARIO

Respondent

— and —

CANADIAN GAMING ASSOCIATION, FLUTTER ENTERTAINMENT PLC,  
NSUS GROUP INC., NSUS LIMITED AND MOHAWK COUNCIL OF KAHNA WÀ:KE

Interveners  
(Interveners)

— and —

ATTORNEY GENERAL OF ALBERTA

Proposed Intervener

---

---

**MOTION RECORD FOR LEAVE TO INTEVENE**

**Filed by the Attorney General of Alberta**

(Pursuant to Rules 55-59 of the *Rules of the Supreme Court of Canada*)

---

---

**ALBERTA JUSTICE**  
Legal Services Division  
9<sup>th</sup> Floor, 10011 – 109 Street,  
Edmonton, AB.

**Jean-Marc Dubé**  
**Peter Buijs**  
Tel: (780) 427-3966  
Fax: (780) 893-7048  
Email: [john-marc.dube@gov.ab.ca](mailto:john-marc.dube@gov.ab.ca)  
[peter.buijs@gov.ab.ca](mailto:peter.buijs@gov.ab.ca)

Counsel for the Proposed Intervener,  
Attorney General of Alberta

**GOWLING WLG (CANADA) LLP**  
160 Elgin Street, Suite 2600  
Ottawa, Ontario K1P 1C3

**Léa Desjardins**  
Tel: (613) 786-0106  
Fax: (613) 563-9869  
Email: [lea.desjardins@gowlingwlg.com](mailto:lea.desjardins@gowlingwlg.com)

Ottawa Agent for Counsel for the Proposed  
Intervener, Attorney General of Alberta

**DAVIES WARD PHILLIPS & VINEBERG  
LLP**

155 Wellington Street West  
Toronto, ON M5V 3J7

**Matthew Milne-Smith  
Chanakya A. Sethi  
Ryan Reid**

Tel: (416) 863-5595  
Fax: (416) 863-0871  
Email: [mmilne-smith@dwpv.com](mailto:mmilne-smith@dwpv.com)

Counsel for the Appellant

**MICHAEL SOBKIN LAW  
CORPORATION**

331 Somerset Street West  
Ottawa, ON K2P 0J8

**Michael Sobkin**

Tel: (613) 282-1712  
Fax: (613) 288-2896  
Email: [msobkin@sympatico.ca](mailto:msobkin@sympatico.ca)

Ottawa Agent for Counsel for the Appellant

**ATTORNEY GENERAL OF ONTARIO**

Crown Law Office - Civil  
720 Bay Street, 8th Floor  
Toronto, ON M7A 2S9

**Joshua Hunter  
Ananthan Sinnadurai  
Hera Evans**

**Jennifer Boyczuk**  
Tel: (416) 908-7465  
Fax: (416) 326-4015  
Email: [joshua.hunter@ontario.ca](mailto:joshua.hunter@ontario.ca)

Counsel for the Respondent

**MCCARTHY TÉTRAULT LLP**

66 Wellington Street West  
Suite 5300, TD Bank Tower  
Toronto, ON M5K 1E6

**Danielle M. Bush  
Adam Goldenberg  
Gregory Ringkamp  
Rachel Abrahams**

Tel: (416) 601-4343  
Email: [dbush@mccarthy.ca](mailto:dbush@mccarthy.ca)

Counsel for the Intervener, Canadian Gaming  
Association

**HENEIN HUTCHISON ROBITAILLE LLP**

235 King Street East  
1st floor  
Toronto, ON M5A 1J9

**Scott C. Hutchison**

**Kelsey Flanagan**

**Brandon Chung**

Tel: (416) 368-5000

Fax: (416) 368-6640

Email: [shutchison@hhllp.ca](mailto:shutchison@hhllp.ca)

Counsel for the Intervener, Flutter  
Entertainment plc

**BORDEN LADNER GERVAIS LLP**

Bay Adelaide Centre, East Tower  
22 Adelaide Street West, Suite 3400  
Toronto, ON M5H 4E3

**Graeme Hamilton**

**Teagan Markin**

Tel: (416) 367-6746

Fax: (416) 367-6749

Email: [ghamilton@blg.com](mailto:ghamilton@blg.com)

Counsel for the Intervener NSUS Group Inc.,  
NSUS Limited

**OLTHUIS, KLEER, TOWNSHEND LLP**

250 University Avenue, 8th Floor  
Toronto, ON M5H 3E5

**Nick Kennedy**

**Sarah Glickman**

Tel: (416) 981-9943

Fax: (416) 981-9350

Email: [nkennedy@oktlaw.com](mailto:nkennedy@oktlaw.com)

Counsel for the Intervener, Mohawk Council of  
Kahnawà:ke

**SUPREME ADVOCACY LLP**

340 Gilmour Street  
Suite 100  
Ottawa, ON K2P 0R3

**Marie-France Major**

Tel: (613) 695-8855 Ext: 102

Fax: (613) 695-8580

Email: [mfmajor@supremeadvocacy.ca](mailto:mfmajor@supremeadvocacy.ca)

Ottawa Agent for Counsel for the  
Intervener, Flutter Entertainment plc

**TABLE OF CONTENTS**

<b>TABS</b>		<b>PAGES</b>
1.	Notice of Motion, Leave to Intervene by the Attorney General of Alberta	1
2.	Margaret Unsworth, KC sworn March 10, 2026	9

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

**IN THE MATTER OF A REFERENCE to the Court of Appeal pursuant to section 8 of the  
*Court of Justice Act, R.S.O. 1990, c C.43, by Order-in-Council 210/2024 respecting  
permitting international play in an online provincial lottery scheme***

BETWEEN:

ATLANTIC LOTTERY CORPORATION, BRITISH COLUMBIA LOTTERY  
CORPORATION, AND MANITOBA LIQUOR AND LOTTERIES CORPORATION

Appellants  
(Interveners)

— and —

ATTORNEY GENERAL OF ONTARIO

Respondent

— and —

CANADIAN GAMING ASSOCIATION, FLUTTER ENTERTAINMENT PLC,  
NSUS GROUP INC., NSUS LIMITED AND MOHAWK COUNCIL OF KAHNA WÁ:KE

Interveners  
(Interveners)

— and —

ATTORNEY GENERAL OF ALBERTA

Proposed Intervener

**NOTICE OF MOTION FOR LEAVE TO INTEVENE**  
**Filed by the Attorney General of Alberta**  
(Pursuant to Rules 55-59 of the *Rules of the Supreme Court of Canada*)

**TAKE NOTICE** that the Attorney General of Alberta (“AGAB”) applies to a Judge of this Court, under Rules 47 and 55 of the *Rules of the Supreme Court of Canada*, for an order granting:

- a) Leave for the AGAB to intervene in this appeal;
- b) Permission to file a factum of up to ten pages in length;
- c) Permission to present oral argument; and
- d) Such further or other order that the Judge may deem appropriate.

**AND FURTHER TAKE NOTICE THAT** this motion is being made on the following grounds:

**The AGAB has a significant interest in this appeal**

1. This appeal asks the Court to interpret section 207(1)(a) of the *Criminal Code*, which creates an exception to the prohibition on operating a lottery scheme where the government of a province conducts and manages the lottery “in that province”. The issue raised is whether it is lawful, under section 207(1)(a), for provincial lottery and gaming schemes to allow individuals outside of Canada to participate online.

2. The AGAB has a significant interest in this issue because of the *IGaming Alberta Act*, which received Royal Assent on May 15, 2025.<sup>1</sup> The *IGaming Alberta Act* allows for provincial regulation of a lottery scheme similar to the “proposed model” in Ontario, which gave rise to the reference question underlying this appeal. Under the *IGaming Alberta Act*, individuals outside of Canada are not prohibited from participating in an internet-based gaming site operated by a regulated agent of Alberta, provided that individual is permitted to do so by the laws of their jurisdiction.<sup>2</sup>

3. Consequently, this appeal will have a significant impact on determining the legality and operation of the *IGaming Alberta Act*. While no constitutional question has been formally raised in this appeal—and accordingly the AGAB cannot intervene as of right—the issues still relate to the legality and operation of validly enacted provincial legislation. The views of AGAB should be considered by this Court.

---

<sup>1</sup> *IGaming Alberta Act*, SA 2025, c I-0.2.

<sup>2</sup> The *IGaming Alberta Act* amends Alberta’s existing *Gaming, Liquor and Cannabis Act*, RSA 2000, c G-1 by inserting section 49.4, which makes it an offence to enter an iGaming site contrary to the regulations. The applicable regulation is section 34.63(1)(c)(iii) of the *Gaming, Liquor and Cannabis Regulation*, Alta Reg 143/1996.

**The AGAB’s proposed submissions will be relevant, useful, and different**

4. If the AGAB is granted leave to intervene, the AGAB will make relevant, useful, and different submissions than the parties. The AGAB’s submissions will focus on the principle that a proper statutory interpretation is one that avoids creating potential conflicts with provincial laws and regulations.

5. Established principles of constitutional interpretation support a broad and flexible interpretation of section 207(1)(a) of the *Criminal Code*.

6. Other than those aspects of gaming subject to criminal prohibition, provincial legislatures have the constitutional legislative authority to regulate gaming in the province under section 92 of the *Constitution Act, 1867*.<sup>3</sup>

7. Through section 207(1)(a), the *Criminal Code* recognizes provincial legislative authority to regulate gaming by exempting from criminal prohibition lottery schemes operated and managed by a government of a province “in accordance with any law enacted by the legislature of that province.”<sup>4</sup>

8. Alberta and Ontario have exercised their constitutional legislative authority to enact provincial internet-based gaming schemes. When faced with validly enacted but potentially conflicting federal and provincial legislation, “the cardinal rule of constitutional interpretation” requires that “when a federal statute can be properly interpreted so as not to interfere with a provincial statute, such an interpretation is to be applied in preference to another applicable construction which would bring about a conflict between the two statutes.”<sup>5</sup>

9. The burden of proof, which is high, rests on the party alleging the conflict and the conflict

---

<sup>3</sup> *R v Furtney*, [1991] 3 SCR 89 at 91; *Siemens v Manitoba (Attorney General)*, 2003 SCC 3 at paras 22, 31-34.

<sup>4</sup> *Criminal Code of Canada*, RSC 1985, c C-46, s 207(1)(a).

<sup>5</sup> *Murray-Hall v Quebec (Attorney General)*, 2023 SCC 10 at para 85 [*Murray-Hall*], quoting *Attorney General of Canada v Law Society of British Columbia*, [1982] 2 SCR 307 at 356.

“must be defined narrowly so that each level of government may act as freely as possible within its respective sphere of constitutional authority.”<sup>6</sup> In the absence of clear and express language to the contrary, harmonious interpretations that allow federal and provincial laws to coexist should be favoured.<sup>7</sup>

10. The AGAB’s interest in this appeal arises from the nature of the office. The AGAB is the chief legal officer of the Crown in right of Alberta.<sup>8</sup> The duties of the AGAB include:

- a. ensuring that “public affairs are administered according to the law”;<sup>9</sup>
- b. superintending “all matters relating to the administration of justice in Alberta that are within the powers or jurisdiction of the Legislature or the Government”;<sup>10</sup>
- c. advising on “legislative acts and proceedings of the Legislature” and advising “the Crown in matters of law”;<sup>11</sup> and
- d. advancing and protecting Albertans’ public interest in legal proceedings.<sup>12</sup>

11. The AGAB represents the Crown in right of Alberta in litigation at all levels of the courts in Canada, including as an intervener at this Court.<sup>13</sup>

---

<sup>6</sup> *Orphan Well Association v Grant Thornton Ltd.*, 2019 SCC 5 at para 66; *Murray-Hall*, *supra* note 5 at para 85.

<sup>7</sup> *Ibid.*

<sup>8</sup> *Government Organization Act*, RSA 2000, c G-10, Schedule 9, ss 1(1) and 2(a).

<sup>9</sup> *Government Organization Act*, schedule 9, s 2(b).

<sup>10</sup> *Government Organization Act*, schedule 9, s 2(c).

<sup>11</sup> *Government Organization Act*, schedule 9, s 2(d).

<sup>12</sup> *Government Organization Act*, schedule 9, s 2(h).

<sup>13</sup> Affidavit of Margaret Unsworth, KC at para 2 [Motion Record, Tab B].

12. The legality of a provincial lottery scheme operated and regulated under validly enacted provincial legislation is an issue the AGAB has an interest in, given this Court's interpretation of section 207(1)(a) will significantly affect the legality and operation of Alberta's *IGaming Alberta Act* and directly impact on the duties of the AGAB listed above.

13. The AGAB intends to make submissions that:

Based on established principles of constitutional interpretation, section 207(1)(a) of the *Criminal Code* should be interpreted in a flexible and broad manner so that it does not conflict with valid provincial legislation regulating gaming.

14. The AGAB's submissions with respect to these issues will be useful to the Court and be different from those of the parties because they will address the effect of this Court's decision outside of Ontario and argue that this Court should apply principles of constitutional interpretation to its analysis to ensure the division of powers between federal and provincial legislation jurisdiction is at the forefront when interpreting section 207(1)(a) of the *Criminal Code*.

**AND FURTHER TAKE NOTICE THAT** the AGAB relies on the Affidavit of Margaret Unsworth, KC sworn March 10, 2026 in support of this motion, and such further and other material as the Judge considers just and appropriate to rely on.

Dated at Edmonton, Alberta, this 11<sup>th</sup> day of March, 2026.



for:

---

**ALBERTA JUSTICE**  
Legal Services Division  
9<sup>th</sup> Floor, 10011 – 109 Street,  
Edmonton, AB.

**Jean-Marc Dubé**  
**Peter Buijs**  
Tel: (780) 427-3966

**GOWLING WLG (CANADA) LLP**  
160 Elgin Street, Suite 2600  
Ottawa, Ontario K1P 1C3

**Léa Desjardins**  
Tel: (613) 786-0106  
Fax: (613) 563-9869  
Email: [lea.desjardins@gowlingwlg.com](mailto:lea.desjardins@gowlingwlg.com)

Fax: (780) 893-7048  
Email: [john-marc.dube@gov.ab.ca](mailto:john-marc.dube@gov.ab.ca)  
[peter.buijs@gov.ab.ca](mailto:peter.buijs@gov.ab.ca)

Counsel for the Proposed Intervener,  
Attorney General of Alberta

**DAVIES WARD PHILLIPS & VINEBERG  
LLP**

155 Wellington Street West  
Toronto, ON M5V 3J7

**Matthew Milne-Smith  
Chanakya A. Sethi  
Ryan Reid**

Tel: (416) 863-5595  
Fax: (416) 863-0871  
Email: [mmilne-smith@dwpv.com](mailto:mmilne-smith@dwpv.com)

Counsel for the Appellant

**ATTORNEY GENERAL OF ONTARIO**

Crown Law Office - Civil  
720 Bay Street, 8th Floor  
Toronto, ON M7A 2S9

**Joshua Hunter  
Ananthan Sinnadurai  
Hera Evans**

**Jennifer Boyczuk**  
Tel: (416) 908-7465  
Fax: (416) 326-4015  
Email: [joshua.hunter@ontario.ca](mailto:joshua.hunter@ontario.ca)

Counsel for the Respondent

**MCCARTHY TÉTRAULT LLP**

66 Wellington Street West  
Suite 5300, TD Bank Tower  
Toronto, ON M5K 1E6

**Danielle M. Bush  
Adam Goldenberg  
Gregory Ringkamp  
Rachel Abrahams**

Tel: (416) 601-4343  
Email: [dbush@mccarthy.ca](mailto:dbush@mccarthy.ca)

Ottawa Agent for Counsel for the Proposed  
Intervener, Attorney General of Alberta

**MICHAEL SOBKIN LAW  
CORPORATION**

331 Somerset Street West  
Ottawa, ON K2P 0J8

**Michael Sobkin**

Tel: (613) 282-1712  
Fax: (613) 288-2896  
Email: [msobkin@sympatico.ca](mailto:msobkin@sympatico.ca)

Ottawa Agent for Counsel for the Appellant

Counsel for the Intervener, Canadian Gaming Association

**HENEIN HUTCHISON ROBITAILLE LLP**

235 King Street East  
1st floor  
Toronto, ON M5A 1J9

**Scott C. Hutchison**

**Kelsey Flanagan**

**Brandon Chung**

Tel: (416) 368-5000

Fax: (416) 368-6640

Email: [shutchison@hhllp.ca](mailto:shutchison@hhllp.ca)

Counsel for the Intervener, Flutter Entertainment plc

**BORDEN LADNER GERVAIS LLP**

Bay Adelaide Centre, East Tower  
22 Adelaide Street West, Suite 3400  
Toronto, ON M5H 4E3

**Graeme Hamilton**

**Teagan Markin**

Tel: (416) 367-6746

Fax: (416) 367-6749

Email: [ghamilton@blg.com](mailto:ghamilton@blg.com)

Counsel for the Intervener NSUS Group Inc.,  
NSUS Limited

**OLTHUIS, KLEER, TOWNSHEND LLP**

250 University Avenue, 8th Floor  
Toronto, ON M5H 3E5

**Nick Kennedy**

**Sarah Glickman**

Tel: (416) 981-9943

Fax: (416) 981-9350

Email: [nkennedy@oktlaw.com](mailto:nkennedy@oktlaw.com)

Counsel for the Intervener, Mohawk Council of Kahnawà:ke

**SUPREME ADVOCACY LLP**

340 Gilmour Street  
Suite 100  
Ottawa, ON K2P 0R3

**Marie-France Major**

Tel: (613) 695-8855 Ext: 102

Fax: (613) 695-8580

Email: [mfmajor@supremeadvocacy.ca](mailto:mfmajor@supremeadvocacy.ca)

Ottawa Agent for Counsel for the Intervener, Flutter Entertainment plc

**NOTICE TO THE RESPONDENT TO THE MOTION:** A respondent to the motion may serve and file a response to this motion within 10 days after service of the motion. If no response is filed within that time, the motion will be submitted for consideration to a judge or the Registrar, as the case may be.

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

**IN THE MATTER OF A REFERENCE to the Court of Appeal pursuant to section 8 of the  
*Court of Justice Act, R.S.O. 1990, c C.43, by Order-in-Council 210/2024 respecting  
permitting international play in an online provincial lottery scheme***

BETWEEN:

ATLANTIC LOTTERY CORPORATION, BRITISH COLUMBIA LOTTERY CORPORATION,  
AND MANITOBA LIQUOR AND LOTTERIES CORPORATION

Appellants  
(Interveners)

— and —

ATTORNEY GENERAL OF ONTARIO

Respondent

— and —

CANADIAN GAMING ASSOCIATION, FLUTTER ENTERTAINMENT PLC, NSUS GROUP  
INC., NSUS LIMITED AND MOHAWK COUNCIL OF KAHNA WÀ:KE

Interveners  
(Interveners)

— and —

ATTORNEY GENERAL OF ALBERTA

Proposed Intervener

AFFIDAVIT OF MARGARET UNSWORTH, KC

I, Margaret Unsworth, KC, of the City of Edmonton, in the Province of Alberta, MAKE OATH AND SAY AS FOLLOWS:

1. I am employed by His Majesty the King in right of Alberta (“Alberta Crown”) with the Department of Justice. Specifically, I hold the position of General Counsel with the office of the Assistant Deputy Minister, Legal Services Division. I am authorized to provide this affidavit on behalf of the Attorney General of Alberta (“AGAB”).

2. The AGAB is the chief legal advisor to the Alberta Crown. The AGAB also represents the Alberta Crown in litigation at all levels of the courts in Canada, including as an intervener at this Court.

3. This appeal arises from a Reference question to the Ontario Court of Appeal set out in an Order-in-Council, which asks:

Would legal online gaming and sports betting remain lawful under the *Criminal Code* if its users were permitted to participate in games and betting involving individuals outside of Canada as described in the attached Schedule? If not, to what extent?

4. On May 15, 2025, the *IGaming Alberta Act*, SA 2025, c I-0.2, received Royal Assent.

5. The *IGaming Alberta Act* established the Alberta iGaming Corporation and amended the *Gaming, Liquor and Cannabis Act*, RSA 2000, c G-1 to not prohibit individuals located in foreign jurisdictions from participating in internet-based gaming operated by a regulated agent of Alberta, provided that the individual is permitted to do so by the laws of their jurisdiction.

6. The AGAB has an interest in this appeal and will be directly impacted as the answer to the Reference question will significantly affect the interpretation and operation of the *IGaming Alberta Act*, which is similar in effect to Ontario's legislation.

7. The AGAB will provide submissions that will be helpful to the Court, are not likely to be advanced by the parties, and will provide an additional, useful perspective from the point of view of a province that conducts and operates a lottery scheme based on the laws enacted by its provincial legislature.

8. The AGAB will make submissions consistent with the Motion for Leave to Intervene, including that the principles of constitutional interpretation favour a flexible and broad interpretation of the *Criminal Code* so that it does not conflict with valid provincial legislation regulating gaming.

9. If granted leave to intervene in this appeal, the AGAB will not take a position on the facts of the appeal nor on the outcome of the appeal.

10. I make this Affidavit in support of an Order granting the AGAB leave to intervene in this appeal. The AGAB seeks leave to file a factum of up to 10 pages and to present oral argument.

SWORN BEFORE ME at Edmonton,  
Alberta, this 10<sup>th</sup> day of March, 2026.

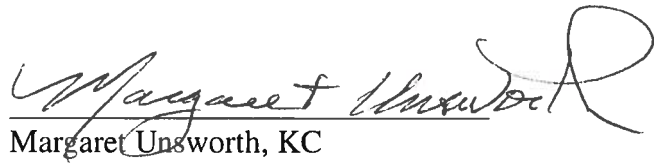


Commissioner for Oaths in and for Alberta

**Jacky Primeau**

A Commissioner for Oaths in  
and for the Province of Alberta  
My Commission Expires October 13, 2026

)  
)  
)  
)  
)  
)  
)  
)



Margaret Unsworth, KC