

CASE NO. VOLUME NO. PAGE

1970

S. C. No. 15055

IN THE SUPREME COURT OF NOVA SCOTIA

APPEAL DIVISION

BETWEEN:

TOWN OF BRIDGEWATER

Appellant

- and -

JOSEPH W. ROSS

Respondent

HEARD at Halifax, Nova Scotia, before the Honourable Chief Justice McKinnon, the Honourable Mr. Justice Coffin and the Honourable Mr. Justice Cooper of the Appeal Division, June 11, 1970

OPINION [oral] June 11, 1970

COUNSEL Angus L. Macdonald, Q.C. Appellant
Peter G. Green, Esq. Respondent

Trade Union Act right of appeal sections 40 (5) and 58 (1)

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McKINNON, C.J.N.S.:

The issue here is whether or not the appellant has the right of appeal under the provisions of the Trade Union Act, R.S.N.S. 1967, c. 311.

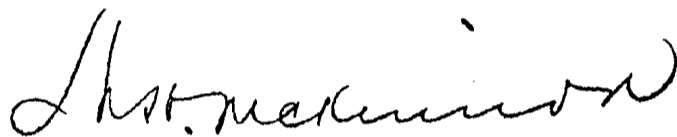
If we accept the argument of the appellant, it would mean that the Legislature actually, in the same Act, repealed the provisions of one section by the enactment of contrary provisions in another section.

Maxwell on Interpretation of Statutes, 11th ed., p. 162, s. 2:

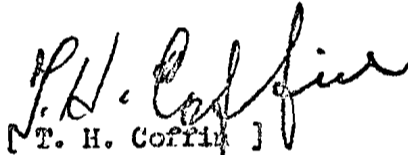
"But repeal by implication is not favoured. A sufficient Act ought not to be held to be repealed by implication without some strong reason. It is a reasonable presumption that the legislature did not intend to keep really contradictory enactments on the Statute Book, or, on the other hand, to effect so important a measure as the repeal of a law without expressing an intention to do so. Such an interpretation, therefore, is not to be adopted unless it be inevitable. Any reasonable construction which offers an escape from it is more likely to be in consonance with the real intention."

Now, it would appear that s. 58 (1) of the Trade Union Act clearly and expressly takes away the right of appeal, and it is well known that the right of appeal is a statutory right. It does not appear to us that it was the intention of the Legislature by the enactment of s. 40 (5) to render nugatory the provisions in s. 58 (1), rather it seems more likely that the Legislature intended the passage of s. 40 (5) merely to facilitate the enforcement of orders by the Labour Relations Board.


It is the unanimous opinion of the Court, therefore, there is no right of appeal here under the provisions of the Trade Union Act. The appeal should be dismissed with costs.



[A. H. McKinnon]
Chief Justice of Nova Scotia



[T. H. Coffin]
Justice, Appeal Division



[A. G. Cooper]
Justice, Appeal Division

Halifax, Nova Scotia

June 11, 1970