

CASE NO.

VOL. NO.

PAGE

Her Majesty the Queen

- and -

Wilson Fuel Company Limited
and Allan Daniel MacAskill

(Appellant)

(Respondents)

CA162037; 162081

Halifax, N.S.

Flinn, J.A.

[Cite as: R. v. Wilson Fuel Company, 2000 NSCA 89]

APPEAL HEARD:

June 9, 2000

JUDGMENT DELIVERED:

August 4, 2000

SUBJECT:

Offences under the Weights and Measures Act, R.S.C. 1970-71-72 c. 36 - Offences alleged to have been committed in the Province of New Brunswick - Jurisdiction of a Nova Scotia Provincial Court Judge to try those offences.

SUMMARY:

The corporate respondent carries on business in Nova Scotia and the individual respondent resides in Nova Scotia. Both were charged, in the Provincial Court of Nova Scotia, with various offences under the **Weights and Measures Act**, R.S.C. 1970-71-72 c. 36, and the **Regulations** made thereunder. The offences related to fuel dispensers at various locations in New Brunswick and Nova Scotia. The Provincial Court Judge decided that he had no jurisdiction to try the offences alleged to have been committed in New Brunswick. The federal Crown appeals.

RESULT:

Appeal allowed.

1. There is no issue here as to the respective division of powers between Parliament and the provincial legislative authority. The federal Parliament has conferred jurisdiction on the Provincial Court of Nova Scotia to hear and determine informations or complaints under s. 37(2) of the **Weights and Measures Act**, which jurisdiction has been accepted by Nova Scotia under s. 7(b) of the **Provincial Court Act**. There is no encroachment on the jurisdiction of the provincial Legislature to constitute courts of criminal jurisdiction under the **British North America Act**.

2. Section 478.1 of the **Criminal Code**, which provides that, subject to the provisions of the **Code**, a court in a province shall not try an offence committed in another province, has no application here. The Parliament of Canada has decided (by virtue of the provisions of s. 34(2) of the federal **Interpretation Act**) that the provisions of the **Criminal Code** apply to offences created by an enactment (such as those created by the **Weights and Measures Act**) except to the extent that the **Weights and Measures Act** otherwise provides. Section 37(2) of the **Weights and Measures Act** otherwise so provides.
3. The words “territorial jurisdiction” in s. 37(2) of the **Weights and Measures Act** refer, in the circumstances of this case, to the Province of Nova Scotia. As a result, when s. 37(2) of the **Weights and Measures Act** states “although the matter of the complaint or information did not arise in that territorial jurisdiction” it means, in this case, that the matter of the complaint or information did not arise in Nova Scotia.
4. The decision in **R. v. Graham** (1997), 121 C.C.C. (3d) 76 is approved. The decision in **R. v. Frankich**, [1987] O.J. No. 1956 is disapproved.

This information sheet does not form part of the court’s decision. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 13 pages.