

CROMWELL J.A.: (Orally)

[1] The Canadian Auto Workers' Union, Local 4624, respondent on the appeal, applies to quash it on the ground the appeal is moot.

[2] The appeal is from the dismissal by Justice Edwards of an application by the appellants for an interlocutory injunction. The injunction was sought to restrain alleged secondary picketing. The labour dispute giving rise to the alleged secondary picketing has since been settled.

[3] There is no dispute that the appeal is moot. The only question is whether we should, nonetheless, exercise our discretion to hear it.

[4] In our view, a decision by the Court, on the merits of the appeal, would not have any practical effects on the rights of the parties.

[5] We have considered whether we should hear the appeal because it raises important legal issues that typically arise in matters of short duration; in other words, whether this appeal raises important issues which might otherwise evade appellate review if the mootness doctrine were applied strictly. We have concluded, however, that exercising our discretion to hear this appeal at this time would not be a wise expenditure of scarce judicial resources for two reasons. First, a significant issue sought to be raised on this appeal, that is, the question of whether secondary picketing is unlawful per se, is presently before and is likely to be resolved by the Supreme Court

of Canada in **R.W.D.S.U. Local 558 v. Pepsi Cola** (1998), 167 D.L.R. (4th) 220 (Sask. C.A.), a case in which leave to appeal to the Court was granted in October of this year. The primary issue in that case is whether secondary picketing is unlawful per se at common law and the resolution of the issue by the Supreme Court of Canada in the context of that case is almost certain to resolve the question for Nova Scotia as well. Second, the decision of the Chambers judge in this case ultimately turned on findings of fact and the exercise of discretion which, if upheld on appeal, would have the result of making it unnecessary to resolve the legal issues sought to be raised.

[6] Taking all of the relevant factors into account, we are not persuaded that we should exercise our discretion to hear this moot appeal. The appeal is, therefore, quashed with costs in the amount of \$1250 inclusive of the previous application plus disbursements.

Cromwell, J.A.

Concurred in:

Hallett, J.A.

Flinn, J.A.