

<u>CASE NO.</u>	<u>VOL. NO.</u>	<u>PAGE</u>
THE CHICKEN FARMERS OF NOVA SCOTIA	- and - ROBERT OULTON, GERARD ANSEMS and LEWIS SILVER	
(Appellant)		(Respondents)
CA 181466	Halifax, N.S.	CHIPMAN, J.A. (Orally)

[Cite as: **Chicken Farmers of Nova Scotia v. Oulton, 2002NSCA155**]

APPEAL HEARD: December 2nd, 2002

JUDGMENT DELIVERED: December 2nd, 2002

WRITTEN RELEASE OF ORAL: December 5th, 2002

SUBJECT: **Natural Products Act, R.S., c. 308, as amended - Agricultural
Commodity Board's power to charge fees for new quota for the
marketing or production of chickens**

SUMMARY: The respondents had, for many years, been on a waiting list maintained by the appellant Board for the allocation of quota for the marketing or production of chickens. The previous practice of the Board was to issue such quota from time to time at no charge. When the respondents reached the top of the list they were charged for quota issued to them and they paid such charge, one of the respondents paying under protest. Subsequently they brought three actions, which were ultimately consolidated, claiming the return of monies paid by them for the quota. The appellant Board maintained that it was authorized under the relevant Regulations made pursuant to the **Act** to charge such quotas, a practice instituted by it with respect to the respondents by administrative policies adopted by the Board. Wright, J. referred to the fact that courts have consistently held the power to impose a fee or a levy or anything in the nature of a tax in the regulation of an industry must be explicitly conferred by the enabling legislation. On reviewing the relevant regulations he was satisfied that such power was not conferred. He ordered the return of the monies paid by the respondents for the quota. He rejected the appellant's contention that if the money were to be refunded the respondents were not entitled to retain their quota. He rejected the contention of the appellant that judicial deference was owed to it respecting its decisions and he rejected the submission that the respondents had not asserted their claims in a timely manner and were thus barred by laches.

ISSUES: Whether the trial judge was correct in reaching his conclusions?

RESULT: The Nova Scotia Court of Appeal, in an oral decision, held that it was satisfied that Wright, J. was correct in the result that he had reached and the Court was in substantial agreement with the reasons given by Wright, J. in support thereof. The appeal was dismissed with costs of \$1500.00 plus disbursements.

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 4 pages.