

CASE NO. VOL. NO. PAGE
Cite as: **Union of Nova Scotia Indians v. Nova Scotia (Attorney General), 1998 NSCA 131**

UNION OF NOVA SCOTIA INDIANS, a body corporate under the *Societies Act*, R.S.N.S. 1989, c.435, on behalf of all registered Indians in Nova Scotia, and **PAUL KENNETH FRANCIS** on his own behalf and on behalf of all registered Indians in Nova Scotia,

ATTORNEY GENERAL OF NOVA SCOTIA, representing Her Majesty the Queen in Right of the Province of Nova Scotia

(Appellants) - and - (Respondent)

C.A. No. **144562**

Halifax, N.S.

BATEMAN, J.A.;
JONES, J.A. (CONCURRING
BY SEPARATE REASONS)

APPEAL HEARD: May 26, 1998

JUDGMENT DELIVERED: July 21, 1998

SUBJECT: The interaction of the **Revenue Act**, S.N.S. 1995-96, c. 5, as amended and **s. 87** of the **Indian Act**, R.S.C., 1985, c. I-5 as regards the requirement that Indian retailers and wholesalers of tobacco products comply with the licensing requirements of the **Revenue Act**.

SUMMARY: Mr. Francis, an Indian who resides on a reserve in Nova Scotia, sought a declaration that he be entitled to a wholesaler's license for tobacco products, pursuant to the **Revenue Act**. He planned to import tobacco products manufactured on the Point-Bleue reserve in Quebec and sell those products to retailers on the reserve in Nova Scotia, for resale by those retailers only to Indians on a reserve. The **Revenue Act** requires that a wholesaler be licensed and collect for the government the tax payable on the tobacco products. There is an exception from the requirement to collect tax for Indian wholesalers who participate in a quota system developed by the government. The validity of this quota system has been the subject of prior litigation. The application for a declaration was dismissed by the Supreme Court. Mr. Francis and the Union of

Nova Scotia Indians appealed that decision.

ISSUES: In the circumstances proposed by Mr. Francis, is he required to comply with the licensing requirements imposed by the **Revenue Act**?

RESULT: Appeal dismissed. The quota system is valid and Mr. Francis must comply with the requirements of the **Revenue Act**. The fact that Mr. Francis must participate in the quota system or collect the tax on the tobacco product does not conflict with **s. 87** of the **Indian Act**.

This information sheet does not form part of the court's decision. Quotes must be from the decision, not this cover sheet. The full court decision consists of 30 pages.