

NOVA SCOTIA COURT OF APPEAL

Cite as: Ratchford v. Lynk, 1995 NSCA 116

FREEMAN, HART AND JONES, JJ.A.

BETWEEN:

PAUL RATCHFORD AND ACS163
ENTERPRISE LIMITED
Appellants

- and -

THOMAS F. LYNK
Respondent

)
Neil F. McMahon
for the Appellant

)
Thomas F. Lynk in person
for the Respondent

)
Appeal Heard:
May 19, 1995

)
Judgment Delivered:
May 19, 1995

THE COURT:

The appeal is dismissed per reasons of Freeman, J.A., given orally,
concurrent in by Hart and Jones, JJ.A.

The reasons for judgment of the Court were delivered orally by:

Freeman, J.A.:

This is an appeal from a summary conviction appeal court judge's finding that the respondent is at liberty to privately prosecute the appellants on a charge he laid under ss. 52(1)(a) and 52(5)(b) of the **Competition Act**, R.S.C. 1993, c. C-34, a summary conviction offence, overturning the ruling of a provincial court judge to the contrary.

Section 34(2) of the **Interpretation Act**, R.S.C. 1993 c. I-21 provides:

All the provisions of the **Criminal Code** relating to indictable offenses apply to indictable offenses created by an enactment, and all the provisions of that Code relating to summary conviction offenses apply to all other offenses created by an enactment, except to the extent that the enactment otherwise provides.

Section 785 (1) of the **Criminal Code**, which is in Part XXVII dealing with summary convictions, provides:

"Prosecutor" means the Attorney General, or where the Attorney General does not intervene, the informant, and includes counsel or an agent acting on behalf of either of them.

The appellant acknowledges that there is no provision of the **Competition Act** excluding the operation of the **Criminal Code** from the prosecution of summary conviction offenses created by the **Competition Act**, but that an intention to do so may be inferred from the scheme of the Act. The summary conviction appeal court judge rejected this argument, holding that clear and specific language is necessary if an enactment is to exclude the operation of the **Criminal Code** and abolish private prosecutions under a federal statute. We agree. The **Competition Act** does not prohibit private prosecutions either by express language or necessary implication. The appeal is dismissed.

Freeman, J.A.

Concurred in:

Hart, J.A.

Jones, J.A.

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REASONS FOR
JUDGMENT BY:

FREEMAN, J.A.