

CASE NO.

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UNION OF NOVA SCOTIA INDIANS, a body corporate, on behalf of itself and its members of the Acadia, Chapel Island, Eskasoni, Membertou, Shubenacadie, Wagmatcook, and Waycobah (Whycocomagh) Indian Bands, and their members, and CONFEDERACY OF MAINLAND MI'KMAQ, a body corporate, on behalf of itself and its members and the Afton, Annapolis Valley, Bear River, Horton, Millbrook and Pictou Landing Indian Bands, and their members and the ASSEMBLY OF NOVA SCOTIA MI'KMAQ CHIEFS

ATTORNEY GENERAL OF NOVA SCOTIA, representing Her Majesty the Queen in Right of the Province of Nova Scotia, HIS HONOUR THE LIEUTENANT GOVERNOR OF NOVA SCOTIA IN COUNCIL, HONOURABLE KENNETH MacASKILL, in his capacity as Minister of Natural Resources (Nova Scotia), ATTORNEY GENERAL OF CANADA, representing Her Majesty the Queen in right of Canada and the Minister of Indian Affairs and Northern Development (Canada), and MARITIMES AND NORTHEAST PIPELINE MANAGEMENT LIMITED, a body corporate, and MARITIMES AND NORTHEAST PIPELINE LIMITED PARTNERSHIP, a limited partnership

- and -

(Appellants)

(Respondents)

CA 157668

Halifax, N.S.

CROMWELL, J.A.

[Cite as: Union of Nova Scotia Indians v. Nova Scotia (Attorney General), 1999 NSCA 160]

APPEAL HEARD: December 7th, 1999

JUDGMENT DELIVERED: December 17th, 1999

SUBJECT: **Actions by and against Crown in right of a Province - Notice of Action - Proceedings Against the Crown Act, R.S.N.S. 1989, c. 360**

SUMMARY: The appellants commenced two proceedings against the Attorney General of Nova Scotia representing Her Majesty the Queen in Right of the Province of Nova Scotia, The Lieutenant Governor and the Minister of Natural Resources. Notice pursuant to the **Proceedings Against the Crown Act** was not given and, on application on behalf of these defendants, both proceedings were dismissed as nullities by the Chambers judge.

ISSUE: Was notice pursuant to the **Proceedings Against the Crown Act** required in both proceedings?

RESULT: Appeal allowed in part. The appeal with respect to the proceeding commenced by Originating Notice (Action) was moot. However, the Chambers judge erred in finding notice under the **Proceedings Against the Crown Act** was required in relation to the proceeding commenced by Originating Notice (Application). This was not a proceeding in which the estate of the Crown was directly affected or in which a person claims against the Crown that land, goods or money of the subject are in the possession of the Crown within the meaning of s. 4(a) of the statute.

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.