

THE UNITED FISHERMEN &
ALLIED WORKERS' UNION,
H. (STEVE) STAVENES and
HOMER STEVENS

APPLICANTS;

1968

*Feb. 19, 20
Feb. 22

AND

HER MAJESTY THE QUEENRESPONDENT.

MOTION FOR LEAVE TO APPEAL

Appeals—Labour—Leave to appeal to Supreme Court of Canada—Injunction directing union officers to order cessation of strike—Vote to determine whether injunction to be obeyed—Conviction for contempt of court—Leave to appeal sought against conviction and sentence.

During the course of a legal strike, the applicants, the striking union and its executive officers, were found guilty of the criminal offence of contempt of court in that they had deliberately defied and challenged the Court in calling a vote of the members to determine whether an injunction should be obeyed, and by comments made in press releases and bulletins to the members. The union was fined \$25,000 and each of the personal applicants was sentenced to imprisonment for twelve months. The Court of Appeal affirmed the convictions and the sentences. The applicants sought leave to appeal to this Court from their conviction and their respective sentence.

Held: The application should be dismissed.

Virtually all the grounds raised before this Court in support of the application to appeal from conviction were rightly rejected as ill-founded by the Court of Appeal. The other grounds raised were also devoid of merit.

As to the application for leave to appeal from sentence, it is settled law that this Court is not competent to entertain an appeal against a sentence imposed for a criminal offence.

Appels—Travail—Permission d'appeler à la Cour suprême du Canada—Injonction ordonnant aux officiers d'une union d'ordonner la suspension d'une grève—Vote des membres pour décider si on devait obéir à l'injonction—Condamnation pour mépris de cour—Demande de permission d'appeler du verdict de culpabilité et de la sentence.

Au cours d'une grève légale, les requérants—l'union en grève et ses officiers—ont été trouvés coupables de l'offense criminelle de mépris de cour parce qu'ils avaient délibérément défié et provoqué la Cour en ordonnant que le vote des membres soit pris pour décider si on devait obéir à une injonction qui avait été émise. On a reproché aussi certains commentaires qui avaient été faits à la presse et dans des bulletins adressés aux membres. L'union a été condamnée à une amende de \$25,000 et chacun des requérants individuellement a reçu une sentence de douze mois d'emprisonnement. La Cour d'Appel a confirmé le ver-

1968
 UNITED
 FISHERMEN
 & ALLIED
 WORKERS'
 UNION *et al.*
v.
 THE QUEEN

dict de culpabilité et les sentences. Les requérants ont présenté une requête pour obtenir la permission d'appeler devant cette Cour du verdict de culpabilité et des sentences.

Arrêt: La requête doit être rejetée.

Virtuellement, presque tous les motifs soulevés devant cette Cour au soutien de la requête pour en appeler du verdict de culpabilité ont été, à bon droit, rejetés par la Cour d'Appel comme étant mal fondés. Les autres motifs soulevés étaient aussi sans mérite.

Quant à la requête pour permission d'appeler de la sentence, il est bien établi que cette Cour n'a pas la compétence pour entendre un appel d'une sentence imposée pour une offense criminelle.

REQUÊTE pour permission d'appeler d'un verdict de culpabilité pour mépris de cour et d'une sentence, la Cour d'Appel de la Colombie-Britannique¹ ayant confirmé le verdict et la sentence. Requête rejetée.

APPLICATION for leave to appeal from a conviction for contempt of court and sentence as affirmed by the Court of Appeal for British Columbia¹. Application dismissed.

John Stanton, Harry Rankin and James Poyner, for the applicants.

W. G. Burke-Robertson, Q.C., for the respondent.

The judgment of the Court was delivered by

FAUTEUX J.:—By judgment rendered, in the Supreme Court of British Columbia, at the city of Vancouver, on June 19, 1967, Mr. Justice Dohm found the applicants, namely The United Fishermen & Allied Workers' Union and its executive officers, H. (Steve) Stavenes and Homer Stevens, guilty of the criminal offence of contempt of court in that they had deliberately defied and challenged the Court by their conduct and sought to bring it into contempt. Proceeding then to pronounce the sentence, the learned judge imposed on the Union a fine of \$25,000 and on Stavenes and Stevens, a sentence of imprisonment for a term of twelve months.

The applicants appealed to the Court of Appeal for British Columbia¹ from their conviction and from their respective sentence. By a unanimous judgment rendered at

¹ (1967), 60 W.W.R. 370.

Victoria, on November 7, 1967, the Court of Appeal dismissed their appeal from conviction and by a unanimous judgment rendered on November 21, 1967, it dismissed their appeal from sentence.

The applicants now seek to obtain leave to appeal to this Court from these two judgments.

As to the application to appeal from conviction:—Virtually all the grounds, raised before us by applicants, are dealt with in the reasons for judgment of Chief Justice Davey who rejected them, and in our view properly so, as ill-founded. With respect to the other points submitted to us by applicants, we are also of opinion that they are devoid of merit. Hence, the application for leave to appeal from conviction should be dismissed.

As to the application for leave to appeal from sentence:—This application cannot be entertained, for, as decided in *Goldhar v. The Queen*², and consistently held ever since, as well as prior to that decision, this Court is not competent to entertain an appeal against a sentence imposed for a criminal offence. The application for leave to appeal from sentence should also be dismissed.

Application dismissed.

Solicitor for the applicants: J. Stanton, Vancouver.

Solicitor for the respondent: D. Sigler, Vancouver.

1968
UNITED
FISHERMEN
& ALLIED
WORKERS'
UNION *et al.*
v.
THE QUEEN
Fauteux J.

² [1960] S.C.R. 60, 125 C.C.C. 209, (1959), 31 C.R. 374.