

LUCIEN TREMBLAY AND }
 OTHERS (*Plaintiffs*) }

APPELLANTS;

1966
 *Dec. 12

AND

LA COMMISSION DES RELA- }
 TIONS DE TRAVAIL DU }
 QUÉBEC (*Defendant*) }

RESPONDENT;

1967
 Oct. 3

AND

LA FÉDÉRATION DES TRA- }
 VAILLEURS DU QUÉBEC }
et al. }

MIS-EN-CAUSE.

ON APPEAL FROM THE COURT OF QUEEN'S BENCH,
 APPEAL SIDE, PROVINCE OF QUEBEC

Labour—Constitutional law—Validity of provincial legislation—Labour Relations Board—Power to dissolve employees' association dominated by employer—Whether statute ultra vires in view of s. 96 of the B.N.A. Act—Labour Relations Act, R.S.Q. 1941, c. 162A, ss. 20, 50 [now R.S.Q. 1964, c. 141, ss. 11, 132]—Professional Syndicates Act, R.S.Q. 1941, c. 162 [now R.S.Q. 1964, c. 146]—B.N.A. Act, 1867, s. 96.

Pursuant to s. 50 of the *Labour Relations Act*, R.S.Q. 1941, c. 162A, the appellant associations, some of which had been incorporated under the *Professional Syndicates Act*, R.S.Q. 1941, c. 162, were brought before the Labour Relations Board where it was asked that they be dissolved on the ground that they had become dominated by the employer contrary to the provisions of s. 20 of the *Labour Relations Act*. The appellants obtained from the Superior Court the issue of a writ of prohibition asking that s. 50 be declared *ultra vires* because it purported to confer upon the Board powers which are exercisable only by a Court, the members of which are appointed pursuant to s. 96 of the *B.N.A. Act*. The Board filed a total inscription in law which was maintained in the Superior Court and by a majority judgment in the Court of Appeal. The appellant associations were granted leave to appeal to this Court. The Attorney General for Canada intervened to support the arguments of the appellants, and the Attorneys General for Quebec and Ontario intervened to support those of the Board.

Held: The appeal should be dismissed.

Section 50 of the *Labour Relations Act*, which empowers the Board to dissolve employees' associations dominated by an employer, including a professional syndicate incorporated under the *Professional Syndicates Act*, is not *ultra vires* the Quebec legislature. Section 50 does not confer upon the Board judicial powers that can be exercised only by a Superior, District or County Court within the meaning of s. 96

*PRESENT: Taschereau C.J. and Cartwright, Fauteux, Abbott, Martland, Judson and Ritchie JJ.

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of the *B.N.A. Act*. The power given to the Board is a limited and discretionary power. It is purely incidental to the accomplishment of the Board's primary purposes, namely the maintenance of industrial peace. There can be no valid analogy between that power and the general power to dissolve corporations conferred upon the Superior Court by the provisions of the *Code of Civil Procedure*.

Travail—Droit constitutionnel—Validité d'une législation provinciale—Commission des Relations de Travail—Pouvoir de prononcer la dissolution des associations de salariés dominées par un employeur—La loi est-elle ultra vires vu les dispositions de l'art. 96 de l'Acte de l'Amérique du Nord britannique—Loi des Relations Ouvrières, S.R.Q. 1941, c. 162A, arts. 20, 50 [maintenant S.R.Q. 1964, c. 141, arts. 11, 132]—Loi des Syndicats professionnels, S.R.Q. 1941, c. 162 [maintenant S.R.Q. 1964, c. 146]—Acte de l'Amérique du Nord britannique, 1867, art. 96.

Conformément aux dispositions de l'art. 50 de la *Loi des relations ouvrières*, S.R.Q. 1941, c. 162A, les associations appelantes, dont plusieurs avaient été incorporées sous la *Loi des syndicats professionnels*, S.R.Q. 1941, c. 162, ont été citées devant la Commission des relations de travail où il a été demandé que leur dissolution soit prononcée pour le motif qu'elles étaient devenues dominées par leur employeur contrairement aux dispositions de l'art. 20 de la *Loi des relations ouvrières*. Les appelantes ont obtenu de la Cour supérieure l'émission d'un bref de prohibition demandant que l'art. 50 soit déclaré *ultra vires* parce qu'il prétend attribuer à la Commission des pouvoirs qui ne peuvent être exercés que par une Cour dont les membres ont été nommés conformément à l'art. 96 de l'*Acte de l'Amérique du Nord britannique*. La Commission a produit une inscription en droit totale qui a été maintenue par la Cour supérieure et par un jugement majoritaire de la Cour d'Appel. Les associations appelantes ont obtenu la permission d'en appeler devant cette Cour. Le procureur général du Canada est intervenu pour supporter le plaidoyer des appelantes, et les procureurs généraux de Québec et d'Ontario sont intervenus pour supporter celui de la Commission.

Arrêt: L'appel doit être rejeté.

L'article 50 de la *Loi des relations ouvrières*, qui donne à la Commission le pouvoir d'ordonner la dissolution des associations de salariés dominées par un employeur, y compris un syndicat professionnel incorporé sous la *Loi des syndicats professionnels*, n'est pas *ultra vires* de la législature de Québec. L'article 50 ne confère pas à la Commission des pouvoirs judiciaires qui peuvent être exercés seulement par une Cour supérieure, de district ou de comté dans le sens de l'art. 96 de l'*Acte de l'Amérique du Nord britannique*. Le pouvoir donné à la Commission est un pouvoir limité et discrétionnaire. Il est purement incident à l'accomplissement de l'objet primordial de la Commission, à savoir le maintien de la paix industrielle. Il ne peut y avoir d'analogie valide entre ce pouvoir et le pouvoir général d'ordonner la dissolution de corporations, conféré à la Cour supérieure par les dispositions du *Code de Procédure Civile*.

APPEL d'un jugement majoritaire de la Cour du banc de la reine, province de Québec¹, confirmant un jugement du Juge Sabourin qui avait maintenu une inscription en droit. Appel rejeté.

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APPEAL from a judgment of the Court of Queen's Bench, Appeal Side, province of Quebec¹, affirming a judgment of Sabourin J. which had maintained an inscription in law. Appeal dismissed.

Maurice Chevalier and *F. Vincent Garneau*, for the plaintiffs, appellants.

Laurent E. Bélanger, Q.C., for the defendant, respondent, and for the Attorney General for Quebec.

Rodrigue Bédard, Q.C., for the Attorney General for Canada.

Frank W. Callaghan, Q.C., for the Attorney General for Ontario.

The judgment of the Court was delivered by

ABBOTT J.:—This appeal is from a majority judgment of the Court of Queen's Bench¹, dated May 14, 1965, confirming a judgment of the Superior Court which had maintained respondent's inscription-in-law and dismissed appellants' petition for a writ of prohibition to prevent the Respondent Board from exercising jurisdiction accorded it under s. 50 of the *Labour Relations Act*, R.S.Q. 1941, c. 162A.

In March 1962, the mis-en-cause applied to the Labour Relations Board (hereinafter called the Board), under the said s. 50, asking that the appellant associations be dissolved on the ground that they had become dominated by employers contrary to the provisions of s. 20 of the *Labour Relations Act*. It appears that some of the said associations had been incorporated or had applied for incorporation under the *Professional Syndicates Act*, R.S.Q. 1941, c. 162. Others appear to be unincorporated groups of the class contemplated by s. 2(d) of the said Act.

¹ [1966] Que. Q.B. 44, 55 D.L.R. (2d) 632.

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On February 19, 1964, shortly before the hearing by the Board on the said application, the appellants applied for, without prior notice, and obtained from the Superior Court, the issue of a writ of prohibition asking that s. 50 of the *Labour Relations Act* be declared *ultra vires* the Quebec Legislature because it purports to confer upon the Board powers which are exercisable only by a court, the members of which are appointed pursuant to s. 96 of the *British North America Act*.

On February 25, 1964, the Board filed a total inscription-in-law which was maintained in the Superior Court and by the judgment in the Court below.

Various procedural questions appear to have been argued in the Courts below, in addition to the constitutional one. Before this Court, however, the sole question in issue is whether s. 50 is invalid because it confers upon the Board judicial powers that can be exercised only by a superior, district or county court within the meaning of s. 96 of the *British North America Act*. The Attorney General for Canada intervened to support the arguments for appellants, and the Attorneys General for Quebec and Ontario to support those for the Board.

Sections 20 and 50 of the *Labour Relations Act* to which I have referred read as follows:

20. No employer, nor person acting for an employer or an association of employers, shall in any manner seek to dominate or hinder the formation or the activities of any association of employees.

No association of employees, nor person acting on behalf of any such association, shall belong to an association of employers or seek to dominate or hinder the formation or the activities of any such association.

50. If it be proved to the Board that an association has participated in an offence against section 20, the Board may, without prejudice to any other penalty, decree the dissolution of such association after giving it an opportunity to be heard and to produce any evidence tending to exculpate it.

In the case of a professional syndicate, an authentic copy of the decision shall be transmitted to the Provincial Secretary who shall give notice thereof in the Quebec Official Gazette.

These two sections have been replaced by ss. 11 and 132 of the new *Labour Code*, R.S.Q. 1964, c. 141, which came into force on September 1, 1964. The texts are substantially the same.

The *Labour Relations Act* and the *Professional Syndicates Act* are included in a group of statutes enacted by

the Quebec Legislature which, generally speaking, have a common purpose. That purpose is to ensure industrial peace and to establish and protect the right of employers and employees to associate and to bargain collectively.

These are matters which clearly are within the legislative competence of the Province. To administer and enforce the provisions of these labour laws, the Legislature has created a special tribunal—the Labour Relations Board. Similar boards have been set up in other jurisdictions and since the decision of the Judicial Committee in *Labour Relations Board of Saskatchewan v. John East Iron Works*¹, it is well established that such tribunals may exercise judicial functions as well as purely administrative ones.

As I have said, the narrow question in issue here is whether the Board, in ordering the dissolution of an association which has been given corporate status under the *Professional Syndicates Act*, is exercising a jurisdiction which belongs exclusively to a s. 96 Court.

The *Professional Syndicates Act* authorizes groups of employers and employees to form an association or professional syndicate and s. 6 states that such groups shall have as their object “the study, defence and promotion of the economic, social and moral interests of their members”. The Provincial Secretary is empowered, at his discretion, upon compliance with the requirements of the statute, to grant corporate status to such bodies. Their powers, however, are limited and they are subject to the control and supervision of the Provincial Secretary. The status and related privileges are conferred, primarily, for the purpose of promoting employer and employee agreements by the process of collective bargaining.

Collective bargaining becomes meaningless if either of the parties to that process is dominated by the other. For that reason, the Legislature saw fit (1) to enact the prohibition contained in s. 20 and (2) to provide in s. 50 that, in the case of a breach of s. 20, in addition to any other penalty, the Board may order the dissolution of the offending association.

The power given to the Board under s. 50 is a limited and discretionary power. It is purely incidental to the accomplishment of one of the primary purposes for which

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¹ [1949] A.C. 134, [1948] 2 W.W.R. 1055, [1948] 4 D.L.R. 673.

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the association was granted corporate status, namely the maintenance of industrial peace. In my view, there can be no valid analogy between that power and the general power to dissolve corporations conferred upon the Superior Court under arts. 978 et seq. and 1007 et seq. of the *Code of Civil Procedure*. These articles—which are substantially the same as those contained in the first *Code of Civil Procedure* adopted in 1867—operate in the broad area of termination of corporate status, at the instance of the Attorney General, on grounds of usurpation of corporate rights, or fraud and mistake in obtaining letters patent. They do not contemplate any such matter as a violation of the provisions of the *Labour Relations Act*.

It follows that in my opinion s. 50 of the *Labour Relations Act* does not confer upon the Board judicial powers that can be exercised only by a superior, district or county Court within the meaning of s. 96 of the *British North America Act*.

I would dismiss the appeal with costs.

Appeal dismissed with costs.

Attorney for the plaintiffs, appellants: M. Chevalier, Montreal.

Attorney for the defendant, respondent: L. E. Bélanger, Montreal.
