1959
Apr. 28, 29, 30
*Jun. 25

ROBERT E. SOMMERS ..... APPELLANT;

AND

HER MAJESTY THE QUEEN ..... RESPONDENT.

H. WILSON GRAY, PACIFIC COAST SERVICES LTD and EVERGREEN LUMBER SALES LTD. ..... APPELLANTS;

AND

HER MAJESTY THE QUEEN ..... RESPONDENT.

ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA

Criminal law—Bribery—Conspiracy—Minister of the Crown—Whether an "official"—Offences under the old Code—Prosecution commenced after coming into force of new Code—Whether limitation period provided by old Code applicable—Effect of transitional provisions in new Code—Criminal Code, R.S.C. 1927, c. 36, ss. 158, 1140—Criminal Code, 1953-54 (Can.), c. 51, ss. 102(e), 745, 746.

The appellants were charged under ss. 158(1)(*e*) and 573 of the former *Criminal Code*, S, for accepting bribes from his co-accused while he was the Minister of Lands and Forests of British Columbia, and the others for giving these bribes, and all of them, for conspiracy to commit these offences. They were convicted by a jury and the verdict was affirmed by a majority in the Court of Appeal. In this Court, the two questions of law involved were: (1) whether a Minister of the Crown in the Province of British Columbia is an "official" within the meaning of s. 158(1)(*e*) of the former Code; and (2) whether the prosecution was barred by s. 1140(1)(*b*)(i) of the former Code.

Held: The appeal should be dismissed.

A Minister of the Crown in British Columbia is an "official" within the meaning of s. 158(1)(*e*) of the former Code. It is impossible to agree with the proposition that s. 158(1)(*e*) applies only to non-political officials as distinguished from political officials. At common law, corruption of any official, either judicial or ministerial, is an offence, and with respect to ministerial officers, an offence in the essence of which the distinction between political and non-political officers has no significance. The history of the Canadian statutory provisions do not indicate, either expressly or by any kind of implication, an intention of Parliament to make such a fundamental departure from the law as would represent the exclusion of Ministers of the Crown and persons involved with them in bribery, from the application of the Act.

---

*PRESENT: Kerwin C.J. and Taschereau, Locke, Cartwright, Fauteux, Martland and Judson JJ.

The prosecution was not barred by s. 1140(1)(*b*)(i) of the former Code. The operation of this statutory limitation was conditioned by the expiration of the time limit indicated and the failure to have, within the same, instituted the proceedings, and before these facts could come into being, the former Code was repealed and the new one substituted therefor. The proceedings here were commenced after the coming into force of the new Code which does not provide for limitation of actions with respect to offences under s. 158. So that as s. 1140 was not the law governing in this case, there was no longer any text of law supporting any exception to the common law principle of *nullum tempus occurrit regi*. The transitional provisions of the new Code (s. 746) indicate, by necessary implication if not in express terms, that the repeal of the former Code did not affect any offence committed against the criminal law prior to the repeal, and this whether proceedings for their prosecutions were commenced or not at the time of the coming into force of the new Code. They also prescribe, for such offences, the procedure obtaining after that time, either in continuance or for the commencement of the proceedings. Finally, they provide for the penalty, forfeiture or punishment to be imposed, after that time in like cases. Thus, for the purposes of the transition, the section specially, and exhaustively, deals with such matters which are covered, for general purposes, in s. 19 of the *Interpretation Act*, R.S.C. 1952, c. 158. The case here came clearly within the language of s. 746(2)(*a*) of the new Code, for the substantive offences were committed prior to, but the proceedings were commenced after, the coming into force of the new Code. So that, with respect to procedure, these offences had to be "dealt with, inquired into, tried and determined" in accordance with the provisions of the new Code.

Finally, s. 19(1)(*c*) of the *Interpretation Act* had no application since, in the circumstances of this case, the right claimed under that section on behalf of the appellants never came into existence. The two facts conditioning the coming into force of the statutory limitation, *i.e.*, the expiration of the time limit and the failure to have, within the same, commenced the proceedings, never came and never could possibly come into being, because of the change in the adjective law.

APPEALS from a judgment of the Court of Appeal for British Columbia[1], affirming the conviction of the appellants. Appeals dismissed.

A. E. Branca, Q.C., and *N. Mussallem*, for the appellant, Sommers.

J. R. Nicholson, for the appellants Gray and Others.

V. L. Dryer, Q.C., and *G. L. Murray*, for the respondent.

The judgment of the Court was delivered by

FAUTEUX J.:—The appellants Robert E. Sommers, H. Wilson Gray, Pacific Coast Services Ltd., and Evergreen Lumber Sales Ltd., were convicted before Wilson J. and a

[1] (1959), 28 W.W.R. 19, 124 C.C.C. 52, 30 C.R. 252.

1959

SOMMERS AND GRAY v. THE QUEEN

Fauteux J.

jury, at the assizes held in and for the county of Vancouver in the province of British Columbia, of offences under sections 158(1)(*e*) and 573 of the former *Criminal Code*, R.S.C. 1927 c. 36, to wit: (i) Sommers, of accepting bribes from his co-accused, and the latter, of giving him these bribes while he was an official of the government, i.e Minister of Lands and Forests of the province; and (ii) All of them, of conspiracy to commit these indictable offences.

The verdict, having been appealed to the Court of Appeal for British Columbia, was affirmed by a majority decision[1], Davey J. A. dissenting on two questions of law which now, and pursuant to s. 597(1)(*a*) of the new Code, form the basis of these appeals by Sommers and his co-accused.

The first of these two questions which, if answered negatively, as was done by the dissenting judge, strikes at the root of all the convictions, is:

> Whether or not a Minister of the Crown in the Province of British Columbia is an official within the meaning of s. 158(1)(*e*) of the old Code.

The parts of s. 158 which are relevant, as well as those which are referred to in the dissent, read as follows:

> 158. Every one is guilty of an indictable offence.....who,
> (*a*) makes any offer, proposal, gift, loan or promise, or gives or offers any compensation or consideration, directly or indirectly, to any *official* or person in the *employment* of the government, or to any member of his family, or to any person under his control or for his benefit, with intent to obtain the assistance or influence of such *official* or person to promote either the procuring of any contract with the government for the performance of any work, the doing of any thing, or the furnishing of any goods, effects, food or materials, the execution of any such contract, or the payment of the price or consideration stipulated therein, or any part thereof, or of any aid or subsidy payable in respect thereof; or
> (*b*) being an *official* or person in the *employment* of the government, directly or indirectly, accepts or agrees to accept, or allows to be accepted by any person under his control or for his benefit, any such offer, proposal, gift, loan, promise, compensation or consideration; or
> (*c*) .....
> (*d*) .....
> (*e*) being an *official* or *employee* of the government, receives, directly or indirectly, whether personally or by or through any member of his family or person under his control or for his benefit, any gift, loan, promise, compensation or consideration whatsoever, either in money or otherwise, from any person whomsoever, for assisting

[1] (1959), 28 W.W.R. 19, 124 C.C.C. 52, 30 C.R. 252

or favouring any individual in the transaction of any business whatsoever with the government, or who gives or offers any such gift, loan, promise, compensation or consideration; or

(*f*) by reason of, or under the pretence of, possessing influence *with the government, or with any minister or official thereof,* demands, exacts or receives from any person any compensation, fee or reward, for procuring from the government the payment of any claim, or of any portion thereof, or for procuring or furthering the appointment of himself or of any other person, to any office, place or employment, or for procuring or furthering the obtaining for himself or any person, of any grant, lease or other benefit from the government; or offers, promises or pays to such person, under the circumstances and for the causes aforesaid, or any of them, any such compensation, fee or reward; or

(*g*) having dealings of any kind with the government through any department thereof, pays to any *employee* or *official* of the government, or to any member of the family of such *employee* or *official,* or to any person under his control or for his benefit, any commission or reward; or within one year before or after such dealings, *without the express permission in writing of the head of the department* with which such dealings have been had, the proof of which permission shall lie upon him, makes any gift, loan, or promise of any money, matter or thing, to any such employee or other person aforesaid; or

(*h*) being an *employee* or *official* of the government, demands, exacts or receives from such person, directly or indirectly, by himself, or by or through any other person for his benefit, or permits or allows any member of his family, or any person under his control, to accept or receive

(i) any such commission or reward, or

(ii) within the said period of one year, *without the express permission in writing of the head of the department* with which such dealings have been had, the proof of which permission shall lie upon him, accepts or receives any such gift, loan or promise; or

(The words relied on by the dissenting judge have been italicized.)

It was recognized in the Courts below and conceded here by counsel for the appellants that, taken in its ordinary and natural sense, the word "official" is wide enough to include a Minister of the Crown. It is suggested, however, that there are reasons pointing to "official" as meaning, under this provision, non political officials of the permanent Civil Service and officials holding government offices analogous thereto, as distinguished from Ministers of the Crown who are political and non permanent officials. A like distinction, it is said, is recognized in Anson's The Law and Custom of the Constitution, 3rd ed., vol. 2, part 2,

1959

SOMMERS AND GRAY v. THE QUEEN

Fauteux J.

p. 69, and also in *The Senate and House of Commons Act*, R.S.C. 1952, c. 249, s. 10 and *The Constitution Act*, R.S.B.C. 1948, c. 65, s. 23, both of these Acts forbidding any person in receipt of any salary, fee or emolument from the government, to be a member of the House of Commons or the Provincial Legislature, respectively. That Parliament intended such a distinction to obtain in the matter here under consideration flows, it is suggested, from various inferences to be drawn from: (i) the association of the word "official" with the words "employee of the government" in s. 158(1)(*e*); (ii) the particular provisions of s. 158(1)(*f*), (*g*) and (*h*) of the old Code and those of s. 102 which, in the new Code, is the counter-part of s. 158, and (iii) the scale of punishment prescribed for corruption of various officials according to the importance of their position and the seriousness of their offence.

With deference, I am unable to agree with the proposition that s. 158(1)(*e*) applies only to non-political officials as distinguished from political officials.

At common law, corruption of any official, either judicial or ministerial, is an offence, and with respect to ministerial officers, an offence in the essence of which the distinction between political and non-political officers has no significance. This clearly appears from what was said in 1769 by Lord Mansfield in *Vaughan's* case[1], and applied, as still being a true statement of the common law, nearly two centuries later, in 1914, by Lawrance J., in *Whitaker*[2]. In *Vaughan's* case, the accused was charged with an attempt to bribe a Privy Councillor, the First Lord of the Treasury. Noting that where it is an offence to take a bribe, it is an offence to give it, the question, said Lord Mansfield, was whether a "great officer", at the head of the Treasury and in the King's confidence, could not be guilty of a crime by selling his interest with the King, in procuring the office sought by the accused. He said:—"A terrible consequence will result to the public if everything that such an officer is concerned in advising the disposal of, should be set up for sale". The answer was that an offer to bribe a Privy

[1] (1769), 4 Burr. 2494, 98 E.R. 308. [2] 10 Cr. App. R. 245.

Councillor constituted, as well as an offer to bribe a Judge, a criminal offence at common law and the conviction of the accused was affirmed.

In 1883, Parliament adopted the first Canadian statutory provisions dealing with the matter of corruption of ministerial officials. The Act, which is 46 Victoria, c. 32, is entitled "An Act for the better prevention of fraud in relation to contracts involving the expenditure of public monies." Sections 1, 2 and 3 form the three substantive provisions, section 3 being the source of s. 158(1)(*e*) of the *Criminal Code*, R.S.C. 1927, c. 36. In these three substantive sections, the word "officer" is associated with the words "employee of the government" or "person in the employment of the government". In my view, neither this association of words nor anything else in the Act of 1883 indicates, either expressly or by any kind of implication, an intention of Parliament to make such a fundamental departure from the law as would represent the exclusion of Ministers of the Crown and persons involved with them in bribery, from the application of the Act. A rational and reasonable *raison d'être* of this association of words is to cover, amongst other cases, that of a Minister of the Crown who is not an "employee" or a "person in the employment of the government", but part of the government and who, as such, was and still is recognized, both under the common law and, as will be shown hereafter, under the Canadian statutory law, as an "officer" of the government. An intent to bring such a limitation to the scope of the law is inconsistent with the very title of the Act of 1883, to which one is entitled to refer for the purposes of throwing light on the construction of the Act. Maxwell On Interpretation of Statutes, 9th ed., p. 44.

Nor can such an intent be found in the language of the provisions of the ensuing legislation involving, in this respect, no modification of the Act of 1883:—(i) *The Revised Statutes of 1886*, c. 173 reproduce the provisions of the Act of 1883, in sections 20 to 24 inclusively; (ii) "*An Act respecting Frauds upon the Government*", 54-55 Vict., c. 23, (1891), where, for the first time, the word "official" is substituted for the word "officer", and where the provisions of section (1) (*e*) are identical with s. 158(1)(*e*) of

1959

SOMMERS AND GRAY v. THE QUEEN

Fauteux J.

the *Criminal Code,* R.S.C. 1927, c. 36; (iii) *The first Criminal Code of 1892,* 55-56 Victoria, c. 29, where the provisions of s. 133 are similar to those of s. 158 of the *Criminal Code,* R.S.C. 1927, c. 36.

Furthermore, it is to be assumed that Parliament used the word "officer" or the word "official" in their ordinary and natural sense. These words, particularly in view of the provisions of the interpretation section, i.e. s. 155, R.S.C. 1927, c. 36, include a Minister of the Crown. There are many statutory enactments where the word "officer" is used in clear reference to or designation of the holder of the highest government ministerial offices. Of these statutory provisions, the following may be mentioned:—Section 58 of the *B.N.A. Act* refers to the Lieutenant-Governor of a province as an "officer"; in the provisions of s. 31(*l*) and (*m*) of the *Interpretation Act,* R.S.C. 1952, c. 158, there is a clear implication that a Minister of the Crown is an "officer"; section 2 of c. 253 of *The Solicitor General of Canada Act,* R.S.C. 1952, authorizes the Governor in Council to appoint an "officer" called the Solicitor General; *The Demise of the Crown Act,* R.S.C. 1952, c. 65, as well as its original predecessor, *The Act respecting Commissions, and Oaths of Allegiance and of Office,* 1868, 31 Vict., c. 36, with reference to the continuance in office in the event of a demise of the Crown, covers the case of every ministerial or judicial officer by the following words:—"any officer of Canada, any functionary in Canada, or any judge of a Dominion or Provincial Court in Canada." It may be added that, while the matter must be determined on the language used by Parliament in s. 158(1)(*e*), the *Act respecting the Constitution of the Province* R.S.B.C. 1948, c. 65, designates, in s. 9, the Prime Minister and the other Ministers constituting, with the Lieutenant-Governor, the Executive Council of the province, as "officials". The cases of *MacArthur v. The King*[1] and *Belleau v. Minister of National Health and Welfare et al.,*[2] quoted by counsel for the appellants, are only relevant to illustrate that the natural meaning of a word may, because of the context in which it is found, or the origin of the statutory enactment

[1] [1943] Ex. C.R. 77, 3 D.L.R. 225.
[2] [1948] Ex. C.R. 288, 2 D.L.R. 632.

in which it appears, or the judicial history of such enactment, be restricted for the purpose of a particular Act or a particular provision thereof. These cases respectively decide that the meaning of the term "officer or servant of the Crown", in s. 19(*c*), and the term "officer of the Crown", in s. 30(*c*), of the *Exchequer Court Act,* do not include a Minister of the Crown.

The contention that the word "official" in s. 158(1)(*e*) is used in a restricted sense, is predicated, in law, on the rule of interpretation according to which the same meaning is implied by the use of the same expression in every part of an Act and, in fact, on the association of the word "official" with the word "Minister" in s. 158(1)(*f*) and with the words "Head of the Department" in sections 158(1)(*g*) and (*h*), or with similar words under s. 102 of the new Code, the counter-part of s. 158 of the old Code. This rule of interpretation is only tantamount to a presumption, and furthermore, a presumption which is not of much weight. For the same word may be used in different senses in the same statute: *Whitley v. Stumbles*[1] and even in the same section *Doe v. Angell*[2]. The case of *The Queen v. Allen*[3] shows that the interpretation contended for by the appellants does not obtain in cases where, as in the present, it would, in the result, leave untouched a portion of the mischief aimed at by the enactment. In these views, it is unnecessary to consider the argument submitted by the parties on the question whether one may validly resort to the new Code by the purpose of interpreting the earlier one.

Finally, and for the reason that the punishment prescribed in s. 158(1)(*e*) would be, if applicable to a Minister of the Crown, out of proportion with the more severe punishment provided in other sections in the case of less important ministerial officers, it is suggested that one must infer that the word "official" in s. 158(1)(*e*) does not include a Minister of the Crown. The premise of this reasoning is quite inapt, in my view, to convey an implied intent of Parliament to render immune from prosecution, under s. 158(1)(*e*), a Minister of the Crown and other persons involved with him in bribery.

[1] [1930] A.C. 544.
[2] (1846), 9 Q.B. 328, 115 E.R. 1299.
[3] (1872), L.R. 1 C.C.R. 367.

1959

SOMMERS AND GRAY v. THE QUEEN

Fauteux J.

Before parting with the consideration of this first question of law, it may be added that it was contended, in the Court of Appeal, that the case of a Minister of the Crown was to be dealt with by impeachment and not in the ordinary way before the Criminal Courts. This submission was abandoned in the Court below, as well as before this Court.

The second question of law upon which there was a dissent in the Court of Appeal is:

> Whether or not the prosecution for the substantive offences, as distinguished from the charge of conspiracy, was barred by the provisions of s. 1140(1)(*b*)(i) of the Criminal Code, R.S.C. 1927, c. 36.

The question arises out of the following circumstances. Section 1140 deals with limitation of actions in the case of certain indictable offences including those under s. 158. With respect to offences under the latter section, s. 1140(1)(*b*)(i) provides that no prosecution shall be commenced after the expiration of two years from their commission. If, as contended by counsel for the appellants, s. 1140(1)(*b*)(i) is the law governing in this case, the question must admittedly be answered affirmatively, for the prosecution of these substantive offences was commenced after the expiration of the two years from their commission. However, the operation of this statutory limitation is conditioned by the expiration of the time limit indicated and the failure to have, within the same, instituted the proceedings, and before these two facts could come into being, the old Code was repealed and the new Code was substituted therefor. The proceedings in this case were commenced after the coming into force of the new Code which, while still providing for limitation of actions in the case of some of the indictable offences mentioned in s. 1140, did not do so with respect to others, including those described in s. 158. So that if, as contended by counsel for the respondent, s. 1140(1)(*b*)(i) is not the law governing in this case, the answer to the question must clearly be negative, for there is no longer any text of law supporting any exception to the common law principle *nullum tempus occurrit regi.*

Anticipating that situations of a character similar to that of the one here considered would naturally arise, during the transitional period consequential to the repeal of the

old Code and the substitution therefor of the new one, Parliament has, in Part XXV of the latter, entitled "Transitional and Consequential", enacted special provisions of a transitional nature respecting proceedings and punishment. These provisions are to be found in section 746.

Section 746 reads as follows:

746. (1) Where proceedings for an offence against the criminal law were commenced before the coming into force of this Act, the offence shall, after the coming into force of this Act, be dealt with, inquired into, tried and determined in accordance with this Act, and any penalty, forfeiture or punishment in respect of that offence shall be imposed as if this Act had not come into force, but where, under this Act, the penalty, forfeiture or punishment in respect of the offence is reduced or mitigated in relation to the penalty, forfeiture or punishment that would have been applicable if this Act had not come into force, the provisions of this Act relating to penalty, forfeiture and punishment shall apply.

(2) Where proceedings for an offence against the criminal law are commenced after the coming into force of this Act the following provisions apply, namely,

(*a*) the offence, whenever committed, shall be dealt with, inquired into, tried and determined in accordance with this Act;

(*b*) if the offence was committed before the coming into force of this Act, the penalty, forfeiture or punishment to be imposed upon conviction for that offence shall be the penalty, forfeiture or punishment authorized or required to be imposed by this Act or by the law that would have applied if this Act had not come into force, whichever penalty, forfeiture or punishment is the less severe; and

(*c*) if the offence is committed after the coming into force of this Act, the penalty, forfeiture or punishment to be imposed upon conviction for that offence shall be the penalty, forfeiture or punishment authorized or required to be imposed by this Act.

The provisions of this section indicate, by necessary implication if not in express terms, that the repeal of the former Code does not affect any offence committed against criminal law prior to the repeal, and this whether proceedings for their prosecution were commenced or not at the time of the coming into force of the new Code. They also prescribe, for such offences, the procedure obtaining after that time, either in continuance or for the commencement of the proceedings. And they finally provide for the penalty, forfeiture or punishment to be imposed, after that time, in like cases. Thus, for the purposes of the transition from the former to the new Code, the section specially, and, in my view, exhaustively, deals with such matters which are covered, for general purposes, in s. 19 of the *Interpretation*

1959

SOMMERS AND GRAY v. THE QUEEN

Fauteux J.

Act, R.S.C. 1952, c. 158, in paragraphs (1)(*d*) and (*e*) and (2)(*b*), (*c*) and (*d*). Hence, there is no necessity to resort to these provisions of s. 19 of the *Interpretation Act* to find, as it was contended by counsel for the appellants, an authority for the commencement or continuance of proceedings for the prosecution of such offences, or to determine which of the former or the new Code, should these proceedings, at any phase of a case, and the sanctions of the law, be in accordance with. These special provisions of s. 746 would be futile if the matters they regulate were to be determined by reference to these general provisions of s. 19 of the *Interpretation Act*.

The case here under consideration clearly comes within the language of s. 746(2)(*a*), for the substantive offences were committed prior to but the proceedings were commenced after the coming into force of the new Code. So that, with respect to procedure, these offences had to be *dealt with, inquired into, tried and determined* in accordance with the provisions of the new Code. The provisions of s. 1140(1)(*b*)(i), limiting the time within which a prosecution under s. 158(1)(*e*) may be commenced, being undoubtedly merely procedural, ceased from the date of the coming into force of the new Code, to be afterwards effective with respect to proceedings commenced after that date. And as there is no text of law, in the new Code, to support, in the matter, an exception to the common law principle *nullum tempus occurrit regi*, a prosecution for an offence committed prior to the new Code, under s. 158(1)(*e*), can no longer be subject to any limitation of action. With deference, I cannot attach, as did the learned dissenting judge, any significance to the lack of reference to the provisions of s. 1140 in s. 746(2)(*a*) of the new Code. The language of s. 746(2)(*a*) is clear, unambiguous, imperative and all-embracing; it must be given its effect.

In these views, only one further point requires consideration. Reference was made to s. 19(1)(*c*) of the *Interpretation Act* providing that:

> 19. (1) Where any Act or enactment is repealed, or where any regulation is revoked, then, unless the contrary intention appears, such repeal or revocation does not, save as in this section otherwise provided,
>
> (*a*) .....

(*b*) .....

(*c*) affect any right, privilege, obligation or liability acquired, accrued, accruing or incurred under the Act, enactment or regulation so repealed or revoked.

Counsel for the appellants submitted that these provisions are effective to protect, against the consequences of the repeal of the *Criminal Code,* R.S.C. 1927, c. 36, and of the substitution therefor of the new Code, any right acquired, accrued or accruing under the former, including, it is said, a right for the appellants to oppose as a defence, in the prosecution for the substantive offences under s. 158(1)(*e*), the limitation of action provided in s. 1140(1)(*b*)(i).

These provisions of s. 19(1)(*c*) of the *Interpretation Act* deal with substantive rights which, subject to the qualifications of the opening words of the section, they aim to protect against the consequences of the repeal of the Act under which their existence is claimed. Had the time limit under the former Code expired before the new Code came into force, the question, then being entirely different from the one here considered, would call for other considerations. In the circumstances of this case, the right claimed on behalf of appellants never came into existence. The two facts conditioning the coming into play of the statutory limitation, i.e., the expiration of the time limit and the failure to have, within the same, commenced the proceedings, never came and never could possibly come into being, because of the change in the adjective law.

In *The King v. Chandra Dharma*[1], the prosecution was commenced more than three but less than six months after the date of its commission; the time limit having been extended from three to six months between the date of the commission and that of the prosecution of the offence. On a Crown case reserved, Lord Alverstone, C. J., with the concurrence of Lawrance, Kennedy, Channell and Phillimore JJ., having said, at page 338, that statutes which make alterations in procedure are *prima facie* retrospective, added:

> It has been held that a statute shortening the time within which proceedings can be taken is retrospective, and it seems to me that it is impossible to give any good reason why a statute extending the time within which proceedings may be taken should not also be held to be retrospective.

[1] [1905] 2 K.B. 335.

1959

SOMMERS AND GRAY v. THE QUEEN

Fauteux J.

The law, as stated in that case, has been followed by this Court in *McGrath v. Scriven and McLeod*[1], affirming the judgment of the Supreme Court of Nova Scotia[2]. The decision of this Court in *Upper Canada College v. Smith*[3], quoted by counsel for the appellants, has no application in the matter. As stated by Turgeon J.A., in *Beattie v. Dorosz and Dorosz*[4], the statute considered was not a statute creating a time limit for the bringing of actions, it was a statute making unenforceable certain oral contracts which had previously been valid and enforceable. The question considered was whether such a statute affected contracts already entered into.

The appeals should be dismissed.

Appeals dismissed.

Solicitor for the appellant, Sommers: A. E. Branca, Vancouver.

Solicitors for the appellants, Gray and Others: Guild, Nicholson & Company, Vancouver.

Solicitors for the respondent: Ellis, Dryer & McTaggart, Vancouver.