

SUPREME COURT WATCH

A digest of recent significant decisions of the Supreme Court of Canada

***R. v. Jones* May 12, 1994**

The Supreme Court upheld the admissibility of psychiatric evidence in dangerous offender proceedings where the accused was not informed of the possibility of such use. In a 5 to 4 decision, the court held that there could be no charter violation since the dangerous offender proceedings provide a public interest function, rather than a punitive function. In addition, the court noted that such proceedings are used for sentencing after guilt has been determined and are not a forum for further incrimination.

***R. v. Mohan* May 5, 1994**

In a split decision, the Supreme Court upheld a finding by the Ontario Court of Appeal that a criminal accused could not admit expert psychiatric evidence that would show that he did not belong to a psychological class of individuals likely to be sex offenders. Such evidence, the court concluded, would be admissible only if the psychiatric profile to be used could be shown to be standardized, reliable, and in wide usage.

***A.-G. (British Columbia) v. A.-G. (Canada); Re An Act Respecting the Vancouver Island Railway* May 5, 1994**

The Supreme Court held that there was no constitutional obligation on the part of the federal government to continue to operate passenger rail service between Victoria and Nanaimo on Vancouver Island. It was held that the agreement entered into in 1883 between the governments of Canada and British Columbia was one that guaranteed construction of the railway and could not have amounted to a constitutional amendment. The case was a challenge to the Canadian Transportation Commission's plan to terminate the uneconomic passenger rail service on Vancouver Island.

***Téléphone Guevremont Inc v. Québec (Régie des télécommunications)* April 26 1994**

The Supreme Court unanimously decided that the operations of Téléphone Guevremont were within the jurisdiction of the CRTC and the federal government by virtue of section 92(10)(a) of the constitution. The small, rural telephone company had appealed to the Quebec courts with regard to orders made against the company by the provincial regulating body, Régie des télécommunications du Québec, to which it had previously been responsible.

***Galaskie v. O'Donnell* April 14, 1994**

By a margin of 7 to 2, the Supreme Court overturned a B.C. Court of Appeal decision that concluded there was no duty on the part of a driver to ensure that a passenger under the age of 16 had his seatbelt on. The court held that the presence of a parent would not negate this duty. They decided that, since the driver is in control of the vehicle, he or she should take all reasonable steps to protect the safety of all child passengers.

***R. v. Burns* April 14, 1994**

In a sexual assault case, the Supreme Court ruled that the B.C. Court of Appeal ought not to have ordered a new trial when it found that, on the facts available, the trial court could have reasonably reached its conclusion. The court held that there is no obligation on lower court judges to expressly state in their judgments that they appreciate all aspects of the evidence brought forward in a given case.

***R. v. Power* April 14, 1994**

On an appeal from the Newfoundland Court of Appeal, the Supreme Court held that there is a very high threshold to be met if an abuse of process by the Crown is to be found in criminal proceedings. The Court of Appeal and the trial court found that the admission of breathalyzer evidence would have brought the administration of justice into disrepute because of the Crown's conduct. It was held that bad faith or improper motive on the part of the Crown must be shown in order to claim abuse of process and that courts should not interfere with prosecutorial discretion.