# IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: ***Minister of Advanced Education v. Rodgers et al.,***
2007 BCSC 583

Date: 20070501
Docket: L042016
Registry: Vancouver

Between:

**The Honourable Murray Coell**
**Minister of Advanced Education**

Plaintiff

And

**(1) Raymond Rodgers**
**(2) Vancouver University Colleges Society**
**(3) Geo Vancouver University Colleges Corporation**

Defendants

Before: The Honourable Mr. Justice Kelleher

## Reasons for Judgment

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|---|---|
| Counsel for the Plaintiff: | Anthony K. Fraser |
| Appearing for the Defendants: | Dr. Raymond Rodgers |
| Date and Place of Hearing: | March 2, 2007<br>Vancouver, B.C. |

[1] The Minister of Advanced Education claims that the defendants are unlawfully granting or conferring university degrees. The Minister seeks a permanent injunction to enjoin the defendants from violating the ***Degree Authorization Act***, S.B.C. 2002, c. 24 (the ***Act***"). Section 8(1)(a) of the ***Act*** provides.

> 8(1) On application of the minister, the Supreme Court may grant an injunction as follows:
>
> (a) the court may grant an injunction restraining a person from contravening this Act if the court is satisfied that there are reasonable grounds to believe that the person has contravened or is likely to contravene this Act; ...

[2] The position of the plaintiff is that the defendants have violated and should be restrained from further violation of s. 3(1)(a),(b),(c) and (d) of the ***Act***.

> 3(1) A person must not directly or indirectly do the following things unless the person is authorized to do so by the minister under section 4:
>
> (a) grant or confer a degree;
>
> (b) provide a program leading to a degree to be conferred by a person inside or outside British Columbia;
>
> (c) advertise a program offered in British Columbia leading to a degree to be conferred by a person inside or outside British Columbia;

(d) sell, offer for sale, or advertise for sale or provide by agreement for a fee, reward or other remuneration, a diploma, certificate, document or other material that indicates or implies the granting or conferring of a degree.

[3] In these proceedings the plaintiff seeks an order in respect of s. 3(1)(a) and s. 3(1)(d), enjoining the defendants from granting or conferring a degree or from selling or offering for sale or advertising for sale, a diploma, certificate, document or other material that implies the granting or conferring of a degree.

[4] The current Minister of Advanced Education is the Honourable Murray Coell. At the commencement of the hearing, an application under Rule 15(5)(a)(ii) was made by the plaintiffs to substitute Mr. Coell for the Honourable Shirley Bond, the original named plaintiff, who is no longer Minister of Advanced Education. This application was unopposed and this order was made at the hearing.

[5] At the commencement of the hearing, the defendant Raymond Rodgers advised the court that he had discharged his counsel and would represent himself and the two other defendants.

[6] Dr. Rodgers also complained to the court that the Government of British Columbia has not complied with requests he has made under freedom of information legislation. He did not, however, seek to adjourn these proceedings. Rather, he presented the case of the defendants.

[7] This matter has some history. As will be seen, the defendants have been granting degrees for many years. The Government of British Columbia has proceeded against the defendants from time to time but the defendants have continued to operate in a manner which the plaintiff says is contrary to the law.

[8] The defendant, Vancouver University Colleges Society, is a society incorporated under the provisions of the ***Society Act***, R.S.B.C. 1979, c. 390 (now R.S.B.C. 1996, c. 433) in 1983. It was formerly known as New Summits University College. It changed its name under the ***Society Act*** on April 2, 1992.

[9] The third defendant was incorporated under the ***Company Act***, R.S.B.C. 1979, c. 59, also in 1983. Its former name was New Summits University Colleges Corporation. The name was changed to its present name, Geo Vancouver University Colleges Corporation, on May 1, 1992.

[10] Dr. Rodgers is the president of both the society and the corporation. In 1992, Dr. Rodgers contacted the then-Minister of Advanced Training and Technology. The Minister, Tom Perry, told Dr. Rodgers that he would be advising the Registrar of Companies not to permit the use of the term "University" in the name of the society or the corporation.

[11] That was because s. 82 of the ***University Act***, R.S.B.C. 1979, c. 419 (now R.S.B.C. 1996, c. 468), then in force, did not permit the use of the word "University" in a name unless it was one of the public universities in the province.

[12] Despite the ***University Act*** and despite Mr. Perry's letter, the name changes were permitted by the Registrar of Companies.

[13] In 1992 and 1993, Dr. Rodgers wrote to the government on many occasions seeking exemption from the legislation which was then in force and which prohibited the conferring of degrees by unauthorized institutions. No such exemption was granted.

[14] In 1990, the Ministry became concerned about an institution known as Vancouver University and the issuance of degrees. This is not a legal entity but is a name under which the defendant corporation and the defendant society operate.

[15] On October 16, 2000, the Private Post-Secondary Education Commission presented a petition to the court in which it sought to restrain Dr. Rodgers and the society from providing post-secondary education. The ***Private Post-Secondary Education Act***, R.S.B.C. 1996, c. 375 (since repealed, S.B.C. c. 79) required that institutions which provide training or instruction at the post-secondary level must register with the Commission. It does not regulate the conferring of degrees. The proceedings were adjourned. No further steps have been taken.

[16] On May 13, 2001, the Attorney General of British Columbia presented a petition in this court seeking an injunction to restrain the defendants from breaching the ***University Act*** by issuing degrees and by holding itself out as a university.

[17] The application for an interim injunction was heard by Mr. Justice Maczko. He described the nature of the defendants and their activities:

> [2] The respondents are a number of affiliated institutions (to which I will refer collectively as the "respondent") including the Vancouver University Colleges Society and the Geo Vancouver University Colleges Corporation. Dr. Raymond Rodgers is the president of both these institutions.
>
> [3] The respondent has been operating educational facilities in British Columbia for some 30 years and has been awarding degrees since 1984. The applicant now seeks to prohibit the respondent from

granting degrees on the basis that it has no lawful authority to do so because it is contrary to the *University Act*.

[4] Section 67 of the *University Act* provides in part as follows:

> (1) A person in British Columbia other than a university must not use or be known by the name of a university.
>
> (2) A person must not in British Columbia hold itself out or be known as a university, or grant degrees in its own name except in accordance with powers granted under this *Act.*

[5] On its face, the respondents appear to be in breach of the statute. The respondent clearly holds itself out as a university and admitted that it grants degrees. The respondent has a complicated structure and I hope I can do justice to it with a short description.

[6] Students obtain a degree from Vancouver University by submitting to it all the courses the student has satisfactorily completed. The courses may have been taken at one of the institutions owned or approved by the respondent or the course may have been taken at other institutions not affiliated with the respondent. The courses are evaluated and a decision is made determining whether the compliment of courses qualifies for a degree. If so, the student will be awarded a degree and will pay $500, $1,000 or $2,000, depending on what level of degree is granted.

[7] It is unclear from the documents, which of the entities actually grants the degree. However, I am informed, by Dr. Rodgers, that it is done by Geo Vancouver University Colleges Corporation.

[8] The legal argument made by Dr. Rodgers is that s. 67 of the *University Act* applies only to public institutions and not private institutions. He argues that this conclusion can be drawn from the context and the content of the *Act*. For example, the *Act* requires that all mortgages on universities must be approved by the government. It is improbable that such a provision would be applicable to a private institution that is not funded by the government. Dr. Rodgers argues that the *University Act* applies to public institutions and does not actually prohibit private institutions from issuing degrees.

[9] Dr. Rodgers also argues that these provisions of the *University Act* are contrary to the equality provisions of the Canadian *Charter*. For example, Phoenix University offers courses in British Columbia and issues a degree from the United States. The government takes the position that Phoenix is not subject to the statute because the degree is not issued in British Columbia. Dr. Rodgers argues that the respondent institutions offer courses in British Columbia and the degree is granted in British Columbia. The statute appears to treat similar American institutions more favourably than Canadian institutions.

[10] I consider the legal arguments to be tenuous and not likely to be successful at trial. However, I cannot say that they have no chance of success. The strength of the applicant's case is one of the factors that I must take into account when deciding whether or not an interim injunction should be granted.

[18] Maczko J. held that interim injunctions are discretionary and should only be granted when there is an "urgent reason to do so". He reasoned that a decision against the respondents would probably have the effect of putting them out of business.

[19] He felt there was no urgency. The government had known of the respondent's granting of degrees for many years. The respondents had invited Ministers of the Crown to attend degree granting ceremonies. The court concluded:

> [22] I can only conclude that if this problem has existed for 20 years with no action by government, there are no dire consequences that will flow from not issuing an injunction prior to trial. On the other hand, the effect of an injunction could be devastating to the respondent and some of its students.
>
> [23] I conclude that on the balance of convenience, justice is best served by giving the respondent an opportunity to fully present and argue its case at a trial before putting it out of business.

[20] The matter never did go to trial.

[21] In 2002, the legislature enacted the ***Degree Authorization Act***, S.B.C. 2002, c. 24. This ***Act*** introduced a procedure where institutions could be authorized to grant or confer a degree, to provide programs leading to a degree, to advertise programs and to use the word "University" to indicate that a program is available. For this reason, the Attorney General did not proceed with the petition.

[22] The ***Act*** came into force in 2003. On December 18, 2003, the former plaintiff, Minister Bond, wrote to the defendants to advise that the ***Act*** was in force. She invited them to apply for consent to provide degree programs, confer degrees, and use the word "university". Such consent is contemplated by s. 4 of the ***Act***:

4(1) The minister may give an applicant consent to do things described in section 3(1) or (2) if the minister is satisfied that the applicant has undergone a quality assessment process and been found to meet the criteria established under subsection (2) of this section.

(2) The minister must establish and publish the criteria that will apply for the purposes of giving or refusing consent, or attaching terms and conditions to consent, under this section.

(3) The minister may attach to a consent the terms and conditions that the minister considers appropriate to give effect to the criteria established and published under subsection (2), including a termination date after which the consent will cease to be effective unless renewed by the minister.

(4) The minister must not give consent unless that minister is satisfied that the person seeking the consent

(a) has given security to protect the interests of students, if security is prescribed respecting the person seeking consent, and

(b) has made adequate arrangements to protect the interests of students by ensuring

(i) that students have access to their transcripts, and

(ii) if requirements for transcript access are prescribed, that the arrangements comply with the requirements.

[23] The Minister established a procedure for the granting of consent under s. 4 of the ***Act***. Applications for consent are referred to a non-statutory board, called the Degree Quality Assessment Board. This Board provides advice to the Minister. The Minister, after considering such advice, then decides whether to grant consent.

[24] The Minister has decided, however, that this process of receiving advice from the Degree Quality Assessment Board can be waived in certain circumstances. An institution, which has lawfully been conferring degrees for ten years and is seeking to confer degrees to the same level, may apply for "exempt" status to receive consent from the Minister without the requirement of assessment by the Board.

[25] The defendants applied for "exempt" status. The position of the government is that the defendants never had the lawful right to confer degrees. As such, the defendants did not meet the criteria for "exempt" status.

[26] The defendants' application for exempt status was refused for that reason. The Minister advised the defendants of this refusal and informed them that an application for consent under s. 4 should be made to the Degree Quality Assessment Board.

[27] No such application was made.

**The Evidence**

[28] Have the defendants been granting degrees and granting diplomas for a fee? Much of the evidence in support of the plaintiff's application comes from the defendants themselves.

[29] Vancouver University is not an incorporated body. Dr. Rodgers described the relationship between the defendants and Vancouver University in his affidavit. He states:

> The defendants are the legal entities responsible for the administration of Vancouver University, as directed by its member colleges.

[30] On December 4, 2004, Dr. Rodgers sent an electronic mail message from the address "Vancouver University - Worldwide University". It appears to have been sent to the former plaintiff, the Deputy Minister of Advanced Education, and the then-Attorney General, with copies to others. In the email, Dr. Rodgers states:

> We offer AppSc, Arts, Bus, Educ, Gen Stud, Tech degrees at three levels. These are conducted/mentored at 26 locations around the world, with content variations reflecting regional needs - plus we have six on-line, and a research doctoral opinion. We have been operating for three decades.

[31] Dr. Rodgers wrote to the Premier in a similar vein on February 6, 2004. This message included:

> We have more than 3,820 students in our current programs and they are severely endangered by the allegations of your Ministry of Advanced Education - suggesting that our three decades of degree programs have been [illegible]. Please deal with this problem.

[32] The defendants appear to use the model of a collegiate university. That is, various colleges in various parts of

the world teach courses or provide instructions. Vancouver University then confers the degree. The above communications and the various admissions of the defendants confirm that degrees are conferred. Dr. Rodgers argues, however, that the degrees are not conferred in British Columbia.

[33] Many of the colleges and the degree ceremonies are located outside British Columbia. The plaintiff does not seek to enjoin conduct outside this jurisdiction. But it is clear, the plaintiff argues, that the defendants are engaged in activities in the province. The president, Dr. Rodgers, resides here. The defendants all operate out of premises on Beatty Street, in the City of Vancouver.

[34] The plaintiff's case against the defendants is based in part on Mr. Rodgers' answers to interrogatories. The questions and answers are as follows:

> Q. Do any or all of the defendants grant or confer any degrees on persons at ceremonies attended by the persons on whom they are conferred? If so, where are the degrees granted or conferred by passing a diploma or certificate to the persons on whom the degrees are conferred, or are they granted or conferred orally?
>
> A. The defendants have granted or conferred some degrees on persons at ceremonies attended by the persons on whom they are conferred outside of British Columbia.
>
> Some degrees have been granted or conferred by passing a diploma or certificate to the persons on whom they are conferred since the commencement of the plaintiff's action in August of 2004. For example, degrees have been granted or conferred in Nepal, Singapore, United Kingdom, Pakistan and in the State of California, United States of America.
>
> Some degrees have been granted or conferred by passing a diploma or certificate to the persons on whom the degrees are conferred.

[35] The second interrogatory reads as follows:

> Q. Do the defendants grant or confer any degrees *in absentia*? If so, are they granted by delivering a diploma or certificate to the persons on whom they are conferred? If so, where are the diplomas or certificates signed and/or sealed? How are the diplomas or certificates delivered to the persons on whom the degrees conferred? If they are posted or given to a courier firm, where are they posted or given to the courier firm?
>
> A. The defendants also granted or conferred degrees without ceremony to persons not attending ceremonies. Some degrees are granted by delivering a diploma or certificate to the persons on whom they are conferred. Diplomas or certificates are signed and/or sealed outside British Columbia.
>
> Diplomas or certificates delivered to persons on whom degrees are conferred are delivered by regular post. Degrees are posted variously in other jurisdictions where the member colleges are located and from the defendants' offices.

[36] I am satisfied that the evidence establishes a breach of the ***Degree Authorization Act***. The defendants grant or defer degrees.

[37] In the first place, there is Dr. Rodgers' own evidence. In his answer to interrogatories, he states that Vancouver University grants degrees to students and they are posted to them from the defendants' offices. As the defendants are the legal entities that direct the actions of Vancouver University, I am satisfied the defendants grant or confer degrees.

[38] Advertisements on his website establish that Vancouver University offers degrees. Dr. Rodgers acknowledges that the University charges a fee for the degree certificates. The website of "WorldwideUniversity.edu" includes the following text:

> Worldwide Vancouver University conducts an aggregate-learning degree process, serving member colleges and external degree candidates since 1970, by assembly and consolidation of multi-sourced academic credit, documented work-place learning, special examinations, etc (ie, Enhanced Prior Learning Assessment and Recognition). The resulting certificates, diplomas and degrees are formally authorized or tacitly accepted in various collaborating jurisdictions...**Our degree authority** historically derived from Common Law precedents, upheld by various Commonwealth high courts [eg, past BC example] and privy councils, affirming that an entity with lawful university name is presumed to award credible degrees - in responsible manner, and striving at all times for excellence. Our degrees thus originated in customary and statutory context, and we collaborate in the quality concern and other academic organizations listed here. Some Common Law jurisdictions have enacted variances from the traditional principle. In November 2003 the BC government proclaimed a variance with regulatory options so narrow in structure and process as to hinder traditional academic freedom and challenge the

operation of a globally-dispersed member colleges consortium university. Nevertheless, in post-2003 DAA context, Vancouver University Worldwide affirms it conforms with the variant Act's criteria of having a proven capability track record and appropriate governance mechanism, and early in 2004 made an overall **BCDAA application** for so-called Exempt status.

We also submitted a further exemplary BCDAA submission in the context of Business Administration programs. The BCDQAB has in hand our IFPAS-POD-CPPD -et al. for application for review. As mentioned above, worldwide Vancouver University also continues its longstanding other degrees, issued outside B.C. jurisdiction.

[Emphasis & underlining in original]

[39] Dr. Rodgers in an affidavit filed in these proceedings in September of 2005 states that the defendants deny:

> that degrees, diplomas or certificates are sold, or provided for a fee. Fees charged by the defendants reflect the usual application and processing fees charge [sic] by other institutions.

[40] Dr. Rodgers is correct that other institutions charge application and processing fees, no doubt. But the fact remains that one requires consent under the ***Degree Authorization Act*** in order to do so. The charging of such fees amounts to the providing of degrees, diplomas or certificates for a fee within the broad language of s. 3(1)(d). That is what the ***Act*** prohibits in the absence of authorization under s. 4.

[41] There is a further admission in Dr. Rodgers' affidavit sworn May 8, 2006 in response to interrogatories. He states that:

> No degrees, diplomas, or certificates are provided simply for a fee. The provision of the degree, diploma, certificate is provided on completion of courses, examinations and other prerequisites.

[42] However, even if the fees relate to the completion of courses or examinations, the fact remains that payment of the fee results in the provision of the certificate.

[43] Additionally, the advertising of degrees on payment of a price amounts to advertising degree certificates for sale, whether or not the degrees are contingent on meeting certain requirements. Institutions are provided with consent to do such advertising under s. 3(1) of the ***Act***. In the absence of consent, this is in breach of the ***Act***. No such consent has been given to the defendants.

**Within British Columbia**

[44] The plaintiff does not seek to enjoin conduct outside the territorial jurisdiction of the court. The plaintiff concedes that the prohibition in s. 3(1) of the ***Act*** does not apply to actions outside British Columbia.

[45] It is noteworthy in this regard that degrees are conferred at ceremonies which take place outside the province. However, it is established on the evidence that the university confers degrees *in absentia*. As stated above, Dr. Rodgers' affidavit makes it clear that some of the degrees are mailed from the defendants' offices and those offices are located in British Columbia.

[46] If a degree certificate is posted in British Columbia, I am satisfied that that amounts to conferring a degree in British Columbia, although the recipient may be elsewhere.

[47] The plaintiff analogizes the granting of a degree to the delivery of a deed in order to argue that mailing of a degree certificate from British Columbia amounts to conferral of that degree in British Columbia. The plaintiff submits, and I accept, that conferral of a degree *in absentia* takes effect at the latest at the point where it is put beyond the control of the conferring body. In the case of a degree that is mailed, the conferring body loses the ability to revoke the degree at the point where it is mailed. In this case, that is in British Columbia.

[48] The plaintiff cited ***Yanke v. Fenske*** (1960), 21 D.L.R. (2d) 419 (Sask. C.A.) for the proposition that the key element in delivery of a deed is that the grantor has removed any ability to withhold or reverse the transaction - there is no requirement that the deed actually be received by the grantee (see pp. 430-432). I agree that the analogy to the point of conferring a degree is apt, and that degrees mailed from British Columbia are granted in British Columbia.

[49] When a degree has been posted, the grantor of the degree has given up control or ability to change its mind about the conferring of the degree. In the case of Vancouver University, the degree has been conferred from British Columbia.

[50] Finally, announcing on the internet that degrees are available from Vancouver University amounts to advertising within the meaning of s. 3(1)(d) of the ***Act***. The defendants are the entities which are responsible for the administration of the university and the administration is conducted from the Vancouver office on Beatty Street.

[51] The plaintiff did not cite any cases to assist the court in determining where advertising on the internet may be said to take place. The ***Act*** does not specifically address the internet. Counsel advocated a common-sense approach to regulation of the internet and indeed to the defendants' activities in general: if British Columbia cannot assert jurisdiction to regulate the activities of the defendants, what other jurisdiction can?

[52] The plaintiff submits that a person who places advertising material on the internet directly or indirectly advertises by making information publicly known. I agree that in this context, the defendants are advertising degrees for sale. Further, I am satisfied that the advertising occurs in British Columbia: the administration of the defendants' affairs is conducted from their Vancouver offices. See for example the decision of the Supreme Court of Canada in ***Society of Composers, Authors and Music Publishers of Canada v. Canadian Association of Internet Providers***, [2004] 2 S.C.R. 427, 2004 SCC 45 at paras. 54-61, holding that Canadian copyright law will apply to communications on the internet where that communication has a real and substantial connection to Canada, considering such things as the *situs* of the content provider, the host server, the intermediaries and the end user. Here, the location of the content provider, Vancouver University, and its controlling minds, the defendants, is in British Columbia. The advertising therefore takes place in British Columbia.

[53] The defendants' response to this evidence is entirely unsatisfactory. Dr. Rodgers asserted that much of the plaintiff's material is "out of date" and that the court should consult the website for up-to-date information. It is not the role of the court to have regard to the internet. As I explained to Dr. Rodgers, the evidence must be put before the court by affidavit. No such evidence was put forward.

[54] Dr. Rodgers asserted that degrees are not mailed from British Columbia. That is contrary to the evidence before the court. His assertion does not amount to evidence.

**Delay**

[55] While the defendants have not made any objection about the delay in this matter, I have considered the fact that the plaintiff has been dilatory in pursuing the defendants.

[56] I have considered whether the doctrine of laches is to be applied. That is a principle of equity that the courts will not assist a party who has not sought to enforce his or her rights expeditiously. This is particularly so where the delay causes prejudice.

[57] Here, the writ and statement of claim were issued on August 10, 2004. An appearance was entered and a statement of defence was filed on October 7, 2004.

[58] There was then no action until the plaintiff filed the notice of motion and supporting materials on August 26, 2005. The defendants filed a response in opposition on September 8, 2005.

[59] The delay between September 8, 2005 and the end of July 2006 can be explained. On December 2, 2005, the plaintiff served interrogatories on the defendant. There was no response from Dr. Rodgers until an application was made to strike out the defence for non-compliance. The eventual response was on May 8, 2006. The plaintiff took the position the response was evasive and brought on a further motion for non-compliance. On June 28, 2006, Master Barber ordered that Dr. Rodgers make further answer to the interrogatories. This was done on July 27, 2006.

[60] The plaintiff then delayed from late July until the notice of motion was served on November 21, 2006.

[61] Counsel did not offer any excuse for these two periods of delay. He advised the court that he was unable to obtain instructions during these periods.

[62] I conclude that the plaintiff is not prevented by these delays from entitlement to the relief to which it would otherwise be entitled. First, there is no evidence of prejudice to the defendants.

[63] Second, and in any event, the injunction is not sought here as an equitable remedy. The source is statutory: ***Degree Authorization Act***, s. 8.

[64] Section 8 of the ***Act*** does provide a discretion to the court to refuse an injunction. But the nature of the discretion is different from that which applies in cases between private litigants. That is because the court is being asked to issue an injunction to bring about compliance with the law. If the court concludes the defendants are not complying with the law, there is a substantial public interest in an order being made. The court will be reluctant to refuse such relief on discretionary grounds. The principle was stated by Cumming J.A. in ***Maple Ridge (District) v. Thornhill Aggregates Ltd.*** (1998), 54 B.C.L.R. (3d) 155, 109 B.C.A.C. 188, leave to appeal to S.C.C. refused, [1998] S.C.C.A. No. 407(a) at para. 9:

> Where an injunction is sought to enforce a public right, the courts will be reluctant to refuse it on discretionary grounds. To the extent that the appellants may suffer hardship from the imposition and enforcement of an injunction, that will not outweigh the public interest in having the law obeyed. See:

*Saskatchewan (Minister of the Environment) v. Redberry Development Corp.*, [1987] 4 W.W.R. 654 (Sask. Q.B.); affirmed [1992] 2 W.W.R. 544 (Sask. C.A.), where Barclay J. said at p. 660:

> I am of the opinion that although I have a discretion under s. 18 of the Environmental Assessment Act to refuse the Crown injunction relief, the nature of the discretion to be exercised in such cases appears to differ from that applied in cases between private litigants simply because the court is required to weigh the public interest. The court will rarely conclude that the public interest in having the law obeyed is outweighed by the hardship an injunction would impose upon the defendant. It has been held that where the Attorney General sues to restrain breach of a statutory provision and where he is able to establish a statutory provision the courts will be very reluctant to refuse him on discretionary grounds: *A.G. v. Premier Line, Ltd.*, [1932] 1 Ch. 303.

In the case of *A.G. v. Bastow*, [1957] 1 Q.B. 514, [1957] 2 W.L.R. 340, [1957] 1 All E.R. 497, Devlin J. held that although the court retains a discretion once the Attorney General has determined that injunctive relief is the most appropriate mode of enforcing the law, once a clear breach of the right has been shown the court should only refuse the application in exceptional circumstances.

[65] See also ***Langley (Township) v. Wood*** (1999), 67 B.C.L.R. (3d) 97, 1999 BCCA 260, where Cumming J.A. was considering a municipality's statutory rights and duties (at para. 12):

> As a general rule, municipal rights, duties and powers, including the duty to carry out the provisions of a statute, are of such public nature that they cannot be waived, lost or vitiated by mere acquiescence, laches or estoppel. See *Cartwright School Trustees and the Township of Cartwright* (1903), 5 O.L.R. 699 (Ont. C.A.); *Crossroads Community Council v. Vanbeek* (1987), 64 Nfld. & P.E.I.R.61, 197 A.P.R. 61 (P.E.I.S.C.); and *Regina v. Kelly Landscape Contractors Ltd.* (1980), 13 M.P.L.R. 67 (Ont. County Ct.).

Thus, in this case, delay is not a significant ground on which to deny an injunction.

[66] I am satisfied the defendants are granting or conferring degrees and are providing degrees for a fee, reward or other remuneration, contrary to s. 3(1)(a) and (d) of the ***Act***. The injunction will be issued in the terms sought by the plaintiff.

[67] Costs may be spoken to.

"S. Kelleher, J."
The Honourable Mr. Justice S. Kelleher