prived of the right of action to set aside the agreement and re-
cover back moneys paid thereunder.

After the judgment appealed from had been rendered the
statute was further amended (5 Geo. V., c. 2), by the addition of
sub-s. 8(a), providing that the seventh sub-section could not be
pleaded or relied on in any civil action or proceeding by a party
to any such agreement when the plan in question had been re-
gistered before the action or proceeding was instituted or where
it was the duty of the party pleading to make such registration.

Held, that, as the last amending Act was not a statute de-
claratory of the law as it stood at the time when the judgment
appealed from was rendered, and as appeals to the Supreme
Court of Canada are not of the nature of he-hearings to which
the principle decided in *Quilter* v. *Mapleson*, 9 Q.B.D. 672, ap-
plies, the restricting provisions can have no effect in regard to
the decision of the present appeal.

Judgment appealed from, 8 West. W.R. 440, affirmed.

A. H. Clarke, K.C., for appellants. *M. B. Peacock*, for re-
spondent.

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B.C.]   [Nov. 2, 1915.

ATTORNEY-GENERAL FOR CANADA *v.* RITCHIE CONTRACTING AND
SUPPLY CO.

*Constitutional Law—Canadian Waters—Sea Coasts—Property
in Foreshores—Harbours—Havens — Roadsteads — Owner-
ship of Beds—Construction of Statute—B.N.A. Act, 1867,
ss. 108, 109.*

The term "public harbours" in item 2 of the third schedule
of the British North America Act, 1867, is not intended to de-
scribe or include portions of the sea coast of Canada having
merely a natural confirmation which may render them suscep-
tible of use as harbours for shipping; such potential harbours
or havens of refuge are not property of the class transferred to
the Dominion of Canada by s. 108 of the British North America
Act, 1867. The term used refers only to public harbours exist-
ing as such at the time when the provinces became part of the
Dominion of Canada.

Per Davies, Idington, Anglin and Brodeur, JJ.:—As that
part of Burrard Inlet, on the coast of British Columbia, known
as "English Bay," was not in use as a harbour at the time of