

Court of Canada which, of course, is clearly covered in Beauchesne's fifth edition, Citation 338(4).

On the other hand, if the government does not exercise its right to appeal the decision, in my view it is logical to draw the conclusion that the government is accepting that what it is now doing is illegal and unconstitutional. I am not a lawyer, but certainly there is no question that it would be illegal in terms of the province of Newfoundland. As well, I believe the impact would be national in scope in terms of the jurisdiction of our courts.

That brings me back to my question of privilege. As a Member of Parliament from Newfoundland, I am being asked to do something which is illegal. It is my respectful submission that Your Honour, as the custodian of our rights and privileges, should protect me from being placed in this position. To add to what I have already said, of the four questions referred by the provinces, the fourth question was exclusively referred to the Supreme Court of Newfoundland by my own province. In its judgment it said:

Referring to a potential unilateral amendment relating to denominational education and boundaries (Terms 2 and 17—

That is the boundary between Newfoundland and Quebec. Term 17 covered Newfoundland's right to its unique denominational system of education. The judgment continues:

—of the Terms of Union and section 8 of the BNA Act, 1871) the court concludes:

Both of these sections can be changed by the amending formulae prescribed in section 41 and the Terms of Union could then be changed without the consent of the Newfoundland legislature.

That clearly places me in an impossible position as a Member of Parliament from Newfoundland. I am being asked to betray the interests of my own province. I am being asked to do something illegal. I am asked to vote on a measure, the amending formula, which could unilaterally bypass the legislature of Newfoundland and change the Terms of Union between Newfoundland and Canada. Clearly, I should not have to face this situation.

Some hon. Members: Hear, hear!

Mr. McGrath: I might also say, Madam Speaker, that the other members of Parliament from Newfoundland must face the same dilemma. However, they will have to deal with that in their own way.

In any event, Madam Speaker, if you should rule that I have a *prima facie* question of privilege, it would be my intention to move, seconded by the hon. member for Provencher:

That the question of the ruling of the Newfoundland Supreme Court on the government's constitutional proposals, now before the House, affects the rights and privilege of members of this House, and therefore should be referred to the Standing Committee on Justice and Legal Affairs.

Some hon. Members: Hear, hear!

Madam Speaker: Before ruling on this matter I will hear from the hon. member for St. John's West (Mr. Crosbie).

Privilege—Mr. Crosbie

Mr. Hnatyshyn: Madam Speaker, I would like to be heard on this matter as well, if I might.

Madam Speaker: There are so many questions of privilege today that I must use some of my discretion in order to hear them all today. Since there are eight questions of privilege, I will be rather strict in the allocation of time with respect to the different questions of privilege; otherwise, it would not be just to all of those members who have questions of privilege.

MR. CROSBIE—THE CONSTITUTION—ALLEGED ILLEGALITY OF PROCEDURE

Hon. John C. Crosbie (St. John's West): Madam Speaker, first, I would like to point out that there are questions of privilege and questions of privilege. Questions of privilege are sometimes raised for frivolous reasons, but there has never been a more serious question of privilege than this to come before this House.

Some hon. Members: Hear, hear!

Mr. Crosbie: While I am very pleased that you are hearing me on this question of privilege—of course, I have already given notice of a similar question of privilege—I certainly feel that my colleague, the justice critic of our party, should be allowed to expand on this matter also since this is in no way a sleazy question of privilege.

This is a matter of great constitutional importance for this House of Commons. My submission is that, in addition to infringing and breaching the privileges of individual members of this House, as my hon. colleague for St. John's East (Mr. McGrath) has mentioned, if the government proceeded any further with the constitutional resolution it would be breaching the privileges of all members of this House. In fact, it would be what the Leader of the New Democratic Party (Mr. Broadbent) described a few days ago—a fantastically “sleazy” practice. He used that word with reference to our House leader; he said that he was behaving in a “sleazy” manner. In view of the judgment given by the Supreme Court of one of our provinces, the tenth province, the Appeal Court, the highest judicial authority in that province, for the government to proceed in the face of such a judgment with a resolution that is already doubtful as to its legality, as now shown beyond doubt by one of the appeal courts of our ten provinces, would be a practice sleazy beyond all belief, one which would have its effect on all members of this House.

● (1540)

I want to refer to several points which have been made by the Newfoundland Court of Appeal. By the way, never have I been prouder to be a Newfoundlander than I am today—

Some hon. Members: Hear, hear!

Mr. Crosbie: —when Chief Justice Mifflin, Mr. Justice Morgan and Mr. Justice Gushue have struck a blow to preserve the federal system and structure in Canada.

Some hon. Members: Hear, hear!