

Hon. Sir JAMES LOUGHEED: Then no harm could be done.

Hon. Mr. FOWLER: Oh, yes. You will have set an example.

Hon. Mr. CASGRAIN: I am going to support the Bill, because I do not want to have the other provinces given a chance to vote again. They might change their minds, and I want to have the monopoly kept right in Quebec.

Hon. Mr. BARNARD: I should like the honourable leader of the House to tell us, if he can, the nature of the litigation that is before the courts. Is it in the nature of a criminal prosecution?

Hon. Sir JAMES LOUGHEED: No.

Hon. Mr. BARNARD: Or confiscation of property?

Hon. Sir JAMES LOUGHEED: No.

Hon. Mr. BARNARD: What is the nature of the action?

Hon. Sir JAMES LOUGHEED: I am not very familiar with it, but the outline of it I understand to be this. A proceeding was taken in the court of the Province of Alberta by a firm of liquor dealers to compel the Dominion Express Company to carry liquor in the course of its business of transporting parcels by express. The Express Company claimed that it was not able to do so under the law, and a question arose as to what the law upon the subject really was. This involved among other questions a consideration of the judicial interpretation by the court, of the matter now before us.

Hon. Mr. FOWLER: Is this to render null and void a prosecution in a private case? If it is, I will certainly vote against it.

Hon. Sir JAMES LOUGHEED: No. It is a case now before the Supreme Court.

Hon. Mr. FOWLER: Private parties?

Hon. Sir JAMES LOUGHEED: No.

Hon. Mr. DANDURAND: The proclamation which the Governor in Council had to issue after being requested by the various legislatures to do, is to be found in chapter 8 of 10 George V. The proclamation is to set forth:

(a) the day on which the poll for taking the votes of the electors for and against the prohibition will be held;

(b) that such votes will be taken by ballot between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of that day;

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Among other things which the proclamation should contain is:

(g) the day on which, in the event of the vote being in favour of the prohibition, such prohibition will go into force.

This was apparently not in the proclamation. As my honourable friend has said, a vendor who wanted to ship from British Columbia into Alberta offered his goods to the Dominion Express, and the Express agent said: "There is a proclamation prohibiting us from carrying liquor into Alberta, and I will not take your goods." A writ was issued to force him, and the local court decided, though not unanimously, that there were paramount reasons why this obligation to fix the date, this neglect in the framing of the proclamation, should be disregarded, and the writ should be rejected. There was an appeal taken, which is now before the Supreme Court, and I quite understand the fear of the Department of Justice of the proclamation being declared insufficient and invalid. Hence this legislation, which would prevent the whole procedure under the proclamation being set aside, and the electors being called again to the polls.

My honourable friend says it is one of those extraordinary or special cases where the law could very well be made retroactive. Well, I will not enter into that field. I know how shy we should be about making laws retroactive, which would affect pending litigation; but I draw the attention of my honourable friend to section 3, which says:

Any court in which proceedings are pending at the time of the coming into force of this Act in which the validity of any proclamation referred to in section one hereof is questioned shall have discretion to make such order as it may see fit with regard to the costs of the proceedings having in view the provisions of this Act.

Well, if this Act passes, the Supreme Court will have to take cognizance of it, and, although it may hold that the action was well taken, and the Dominion Express Company was at fault because the proclamation and the whole procedure under it was invalid, yet in expressing that opinion it clearly cannot maintain the appeal because this Act is a clear, complete estoppel; but the court will give the costs against the respondent. That may be sufficient for the case as it stands before the Supreme Court; but I would like to ask my honourable friend a question. If there happened to be a case in Alberta—since we are speaking of Alberta—in which one violated the Act, and when brought before