

the invalidity of legislation because of a technicality being raised in judicial proceedings. It must be remembered that the plebiscites which have been submitted in the different provinces of Canada were held at the expense of the Government of Canada. A very considerable amount of money has been expended in the taking of those votes, probably exceeding one million dollars. It is therefore not desirable that the result of this expenditure should be defeated by reason of any technicality having arisen as to the proclamation which was issued. No good purpose would be served by giving recognition to a technicality of that kind, because it would only necessitate another submission to a vote of the people of the province in which the validity of the proclamation in question is contested.

Hon. Mr. FOWLER: The result might be different next time.

Hon. Sir JAMES LOUGHEED: The vote might be different; but the law already provides for submission to another vote if public opinion expresses itself in that direction. The purpose of this legislation is therefore to cure any defect, without admitting that there has been an irregularity. There may be a conflict between the opinion given by the law officers of the Crown in connection with the proclamation and the judicial authority that may be called upon to decide the question. To obviate any conflict of that kind and to give validity to the issuance of the proclamation upon which the vote has been taken, it is proposed that this Bill should be passed.

Hon. Mr. CASGRAIN: May I ask the honourable gentleman, does that deal with the Scott Act in Quebec City?

Hon. Sir JAMES LOUGHEED: It has nothing to do with the Scott Act.

Hon. Mr. CASGRAIN: It does not settle that matter?

Hon. Mr. BOSTOCK: Honourable gentlemen, the Bill of which my honourable friend has just moved the second reading brings up, I think, a very important question, as to the right of Parliament to legislate on a matter that is actually before the courts. I quite appreciate what my honourable friend has said, that in this particular case the question raised may be only a technical one, and that we would not be justified in putting the country to the expense which would be entailed in having to take the referendum over again.

I understand that the question affects the referendum in most of the provinces—in Alberta, Saskatchewan, Manitoba, Ontario and Nova Scotia; and of course we can readily understand that considerable expense has been incurred in taking those referendums. But we must consider the principle involved in our legislating with regard to a matter that is before the courts. As I read the Bill, it does not deal with any litigation that is now before the courts, but provides for the question of cost; but honourable gentlemen will remember that in the Canada Temperance Act, which we passed in the second Session of 1919, it was provided that anyone infringing its provisions should be subject to a heavy penalty, and, further, might be given a sentence of imprisonment. Now, if this proposed legislation is going to affect in any way the interests of parties before the courts at the present time, we should be very careful indeed before assenting to it. We should be establishing a principle which is exceedingly bad and not in the interest of the country generally. Further, we should be doing a great injustice to the individuals who are interested in the lawsuit, now before the courts, and who have in good faith taken an appeal against a decision rendered against them under this Act. I therefore think that when we reach the committee stage of this Bill we should very carefully consider the amending of some of the clauses, so that it may not interfere with the proceedings now before the courts.

The motion was agreed to, and the Bill was read the second time.

CONSIDERED IN COMMITTEE

On motion of Hon. Sir James Lougheed, the Senate went into Committee on the Bill. Hon. Mr. Blain in the Chair.

On section 1—proclamation valid if it states prohibition shall go into force on day and date declared by Order in Council:

Hon. Mr. BOSTOCK: This section is the one that I think we should amend. It says:

No proclamation heretofore or hereafter issued under Part IV of the Canada Temperance Act, as enacted by chapter eight of the statutes of 1919, second session, shall be deemed to be void, irregular, defective or insufficient for the purposes intended merely because it does not set forth the day on which, in the event of the vote being in favour of the prohibition, such prohibition will go into force, provided it does state that such prohibition shall go into force on such day and date as shall by Order in Council under section one hundred and nine of the Canada Temperance Act be declared.