

*Oral Questions***THE CONSTITUTION**

RULING BY SUPREME COURT OF NEWFOUNDLAND ON
CONSTITUTIONAL RESOLUTION—EFFECT ON MEMBERS OF
PARLIAMENT FROM NEWFOUNDLAND

Hon. John C. Crosbie (St. John's West): Madam Speaker, apparently this is Sesame Street day for the Leader of the New Democratic Party on procedure. An easy way is to adjourn this debate in the House and carry on with all kinds of other business. My question is to the Prime Minister. The Supreme Court of Newfoundland on appeal has found this process to be unconstitutional—not some amendment, the whole process. It has found that the charter of rights and freedoms in this resolution must infringe upon the powers of the provinces to legislate in respect of property and civil rights. No amendment, except the very gutting of this resolution, would change the process.

Even if the courts find the process to be legal, and within the constitutional boundaries of the federal government, there would still be an argument as to whether it is proper in public policy terms to go ahead. We argue that it is not, that it would destroy confederation.

The Prime Minister, who was a professor, knows the difference between these two points. One is legality and the other is whether it is proper even if it is legal. It is not legal, and in our view it is not proper either.

Some hon. Members: Hear, hear!

Madam Speaker: Order. I just want to warn the hon. member that he must be short in his questions.

Some hon. Members: Oh, oh!

Madam Speaker: Order, please. I allowed more than the usual time for questions at the beginning of the question period. The only way to help the Chair now is to be brief in the questions so that we can at least have a reasonable number of questions in this question period.

Mr. Andre: Be a little consistent.

Mr. Mitges: What about the answers?

Mr. Crosbie: In view of the decision by the highest judicial authority in Newfoundland, until the matter goes to the Supreme Court of Canada how can the Prime Minister ask the seven Newfoundland MPs to ignore the decision of their own court that this is beyond the power and jurisdiction of this House, illegal and unconstitutional, and go ahead and make a judgment, and vote on this matter in the face of the decision of our own court in Newfoundland?

Some hon. Members: Hear, hear!

Right Hon. P. E. Trudeau (Prime Minister): Madam Speaker, the hon. member for St. John's West points out that the Newfoundland Court of Appeal found the process illegal, he says. Then he wonders how members from Newfoundland

can debate this process. I remind him that when the court of Manitoba decided that it was legal—

Some hon. Members: Oh, oh!

Mr. Munro (Hamilton East): Let him answer.

Mr. Trudeau: It seems to me that this re-establishes once again ad nauseam that the question of legality is not settled. That is why we are proposing that it be settled. In so far as whether it is proper or not, a large part of my speech a couple of weeks ago dealt with that very matter. The question is that there is no precedent for what we are doing. The precedent in proceeding in the way suggested by the opposition has produced zilch for 54 years.

Some hon. Members: Untrue.

Mr. Trudeau: They say it is not true. I put it to them that since 1927 the governments of this country have been—

Some hon. Members: Order.

Mr. Nielsen: How about the length of the answers, Madam Speaker?

Madam Speaker: Order, please. Does the hon. member for St. John's West have a supplementary, a short one?

Mr. Crosbie: My supplementary is this. The court of Manitoba by a majority found the process to be legal. That still left the question as to whether it was a proper exercise of its powers by this House to carry this resolution through. We do not agree that it is a proper exercise of the powers of this House.

The Supreme Court of Newfoundland on appeal said that the government is asking Parliament to arrogate to ourselves an authority we do not possess. They held it not to be a proper request to Her Majesty's Parliament in Great Britain. Is the Prime Minister going to try to encourage the seven Newfoundland Members of Parliament here to carry out an impropriety, to vote on a process found to be improper by the highest judicial authority in Newfoundland? Surely we can wait until this matter goes to the highest judicial authority of the whole nation before he requires that.

Some hon. Members: Hear, hear!

Mr. Trudeau: Madam Speaker, in my previous answer I dealt with the matter of legality and how that could be determined. As to the matter of propriety, whether it is or is not, our whole point is that is a matter for Members of Parliament to decide, and then a matter for the Canadian people to decide. The courts are there to judge the illegality or otherwise. It is the Canadian people who are to judge whether our actions produce the effects that they want, and whether they are proper or not. That is our position.

Some hon. Members: Hear, hear!