the report stage of the borrowing authority? If he would tell us
that, then I think we could deal with it. I am not playing
games with my hon. friend; I want to know what today's
business of the House is?

Mr. Pinard: Madam Speaker, I am sorry, perhaps my
colleague misunderstood me. I will repeat. The Minister of
State for Finance will, if we reach motions, move the motion to
allocate time on the borrowing authority bill. I am saying now
in English exactly the same thing that I said in French a
minute ago.

Mr. Baker (Nepean-Carleton): It is the translation.

Mr. Pinard: I am sorry if my colleague did not understand
it. That is very clear and unequivocal, and that is what the
minister is going to do.

Mr. Blenkarn: Would the government House leader advise,
if we want to continue the discussion on whether closure
should be employed under 75c, whether we would continue
with the borrowing authority bill tomorrow and Thursday?

Mr. Pinard: Madam Speaker, closure cannot be imposed on
75c. That is a motion dealing with the allocation of time. Once
it has been decided later on today, then the government knows
that two days will have to be allotted to complete the report
and third reading stages of the bill.

Will those two days be tomorrow and the following day? All
I can say to the hon. member is that it will be very soon, but I
would like to look at our plans later today once I know we have
a House order that will allow two specific days to conclude
debate on that bill. I cannot give the undertaking now that this
bill will be discussed tomorrow and the following day, but I
can give the undertaking that it will be dealt with in the very
near future.

Madam Speaker: Do I understand, then, that the House
wants to continue the normal procedures at this time and
perhaps negotiations can take place later on? There is no
agreement now to go to anything else but the normal proce-
dures at this time?

Mr. Baker (Nepean-Carleton): Madam Speaker, no, we have
discussed that. The question we were discussing, just
to be clear, is exactly what business we would deal with if and
when we get to orders of the day, or what would normally be
motions. I wanted to know the business of the House. In view
of the offers and the exchange of offers which have been made
in the House, we now know what it is. That is all; there is no
question of an agreement. The government House leader has
given his unequivocal undertaking on that point.

Madam Speaker: Very well. However, I want to tell the
House that I received notice of eight questions of privilege to
be heard at this time. I am prepared to hear them, and I want
all hon. members to have a chance to raise their questions of
privilege. If all are to be heard today, I would suggest that
hon. members try within ten minutes to expose their questions
of privilege, so that each and every member who has given
notice is able to proceed with his question of privilege.

The first one is in the name of the hon. member for St.
John's East. Before recognizing the hon. member for St. John's
East, I should like to indicate that since there is some similari-
ty between the question of privilege of the hon. member for St.
John's East and the one of the hon. member for St. John's
West (Mr. Crosbie), I will hear those two questions at the
same time. Once I have heard the hon. member for St. John's
East, I will ask the hon. member for St. John's West to make
sure he is not overlapping the first question of privilege.

* * *

PRIVILEGE

MR. MCGRATH—THE CONSTITUTION—DECISION OF
NEWFOUNDLAND COURT OF APPEAL

Hon. James A. McGrath (St. John's East): Madam Speaker,
I am very conscious of your ruling today on the point of
order raised a few days ago by the Right Hon. Leader of the
Opposition (Mr. Clark). I want to impress upon Your Honour
at the outset that my question of privilege raises a whole new
point. It does not attempt to go over the ground which was so
ably put forward by the Right Hon. Leader of the Opposition.

It is interesting that in Your Honour's ruling today, if I may
refer to it—I am not questioning it; I accept it—you pointed
out precedents of your illustrious predecessors in which they
stated that the Chair was merely to rule on questions of order,
not on questions of law; that it was not for the Chair to decide
whether or not a question was constitutional, within the Con-
stitution, or ultra vires of the Constitution; that, in fact, was a
question for the courts to decide.

It is interesting that my question of privilege today arises
out of just such a situation. It arises out of the unanimous
ruling brought down earlier today by the appeal division of the
Supreme Court of Newfoundland on questions submitted to it
by the six provinces. It is not without interest that the ruling
should come down on the thirty-second anniversary of the
dominion of Newfoundland becoming the tenth province of
Canada.

I intend to lay out what I consider to be a very important
question of privilege arising out of the decision of the Supreme
Court of Newfoundland and the business before the House.
The questions on which the court ruled were four in number,
three of which were submitted by the six provinces; the fourth
question dealing specifically with the terms of union between
Newfoundland and Canada was submitted by the province of
Newfoundland. It is important for me to read the questions
because they are relevant. I think it is important that they
should be on the record. Certainly in terms of my argument it
is important that they be placed within the context of my
question of privilege before Your Honour. They read as
follows:
Privilege—Mr. McGrath

1. If the amendments to the Constitution of Canada sought in the "Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada", or any of them were enacted, would federal-provincial relationships or the powers, rights or privileges granted or secured by the Constitution of Canada to the provinces, their legislatures or governments be affected and, if so, in what respect or respects?

2. Is it constitutional convention that the House of Commons and Senate of Canada will not request Her Majesty the Queen to lay before the Parliament of the United Kingdom of Great Britain and Northern Ireland a measure to amend the Constitution of Canada affecting federal-provincial relationships or the powers, rights or privileges granted or secured by the Constitutions of Canada to the provinces, their legislatures or governments without first obtaining the agreement of the provinces?

3. Is the agreement of the provinces of Canada constitutionally required for amendment to the Constitution of Canada where such amendment affects federal-provincial relationships or alters the powers, rights or privileges granted or secured by the Constitution of Canada to the provinces, their legislatures or governments?

The fourth question was the one submitted by the government of Newfoundland; it deals specifically with the terms of union. It reads:

4. If Part V of the proposed resolution referred to in question 1 is enacted and proclaimed into force could it (a) the Terms of Union, including terms 2 and 17 thereof contained in the Schedule to the British North America Act, 1949 (12-13 George VI, c. 22 (U.K.)), or (b) section 3 of the British North America Act, 1871 (34-35 Victoria, c. 28 (U.K.)) be amended directly or indirectly pursuant to Part V without the consent of the government, legislature or a majority of the people of the province of Newfoundland voting in a referendum held pursuant to Part V?

On each question the Court of Appeal of the Supreme Court of Newfoundland unanimously ruled in favour of the provinces. I intend to place before Your Honour arguments indicating that this decision directly affects my privileges as a member of this House. Today I am speaking to a matter of personal privilege. I should like to refer to Beauchesne's fifth edition, Citation 16, which reads in part as follows:

The distinctive mark of a privilege is its ancillary character. The privileges of Parliament are rights which are "absolutely necessary for the due execution of its powers". They are enjoyed by individual members, because the House cannot perform its functions without unimpeded use of the services of its Members; and by each House for the protection of its members and the vindication of its own authority and dignity.


It bears repetition to note what Beauchesne said, that the House cannot perform its function without the unimpeded use of the services of its members and by each House for the protection of its members and the vindication of its own authority and dignity. I am being asked, as a member of this House, to do something which the courts have ruled to be illegal. That speaks directly to what Beauchesne had to say. Obviously, it is something that I cannot do. I cannot stand in my place and vote on a resolution that has been declared to be ultra vires and, hence, illegal. To do so would be flying in the face of the trust I have of the people who elected me to represent them here. But, more particularly, I would be flying in the face of the solemn obligation that I have as a member of this House to uphold the rule of law.

• (1536)

Some hon. Members: Hear, hear!

Mr. McGrath: In its unanimous decision the Newfoundland Appeal Court stated:

By attempting to secure from the Parliament of Great Britain an amendment that would affect the fundamental rights of the provinces without first obtaining the consent of the provinces, the Canadian Houses of Parliament would be arrogating to themselves an authority they do not possess, an authority that would segate the plenary and exclusive power of the provinces to legislate on matters within their competence and would provide access for Parliament into the provincial domain from which they are constitutionally excluded. They would, in fact, be asserting a jurisdiction that would enable them to obtain indirectly what they cannot legally obtain directly.

Some hon. Members: Hear, hear!

Mr. McGrath: I might say that is practically word for word the position that the hon. member for Provencher (Mr. Epp), and those of us who are associated with him, took when we participated in the deliberations of the Special Joint Committee on the Constitution.

Finally, I would like to quote again from the judgment of the Newfoundland Court of Appeal:

The framers of the British North America Act decided in their wisdom that Canada should not be a unitary state, but a federal one. Canada, however, could, in effect, be converted into a unitary state if that act could be amended simply at the request of the Canadian Parliament without the concurrence of the provinces.

As I have indicated, Madam Speaker, you have already ruled on the very important point of order raised by my leader, the Right Hon. Leader of the Opposition. I do not think I would be out of order if I were to repeat that the pitch and substance of the question of privilege I want to place before Your Honour goes right to the privileges of the members of this House; that is, whether or not we as Members of Parliament should be called upon to vote on a measure which has, in fact, been ruled to be illegal by the unanimous decision of one of the federally-appointed superior courts of this nation.

Some hon. Members: Hear, hear!

Mr. McGrath: The fact that the court is the Supreme Court of my own province gives this matter an added dimension in terms of its direct impact on those of us, the seven of us in this House, who represent Newfoundland constituencies. How can I be asked to vote on a measure that the highest court in my own province has unanimously ruled to be illegal? As I said, to do so would be a betrayal of my trust.

There is another point I wish to raise, Madam Speaker. I referred Your Honour today to the exchanges between the Right Hon. Leader of the Opposition, the Right Hon. Prime Minister (Mr. Trudeau), my colleague the hon. member for Provencher and myself, because they are very germane to the point I want to make at this time. If the federal government decided—and this would be a normal thing for it to do—to appeal the decision of the Newfoundland Supreme Court to the Supreme Court of Canada, then we would have ipso facto a reference by this government of its resolution to the Supreme
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 concludes:

—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 formula 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. Haatnyshyn: 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.

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!
Mr. Crosbie: I would just like to quote one or two sections from page 46 of the judgment, where the learned judges say this:

The division of powers prescribed by the Constitution excludes federal jurisdiction over provincial autonomy within their legislative competence, and thus a proper request to Her Majesty's parliament in Great Britain to change such fundamental aspects of the Constitution can only be made after the provinces have agreed to such change.

Reference is made to a "proper" request, Madam Speaker. That means that the full appeal court of the province of Newfoundland has said that this resolution now before this House is improper. What the government is asking the hon. members of this House to do is to engage in an impropriety. In other words, this is a conspiracy to cause the hon. members of this House to commit an illegal act, an impropriety, and that is the finding of our Supreme Court.

Before we go any further in Parliament with these proceedings, every member of this House should read the judgment of the Newfoundland Court of Appeal. Then they will understand what the nature of the objections on this side of the House have been to this whole process and procedure.

Continuing with the judgment handed down today, the judgment quotes the learned Mr. Justice Ivan Rand—and I cannot think of a greater judicial authority in Canada—said as reported at page 26:

Legislatively, a unique situation has been created.

He was discussing the Statute of Westminster.

The British parliament has in effect become a bare legislative trustee for the dominion.

Then our court went on to say this:

We adopt that statement fully with the important addition that the parliament of Great Britain is a "bare legislative trustee" for both the federal Parliament and the provincial legislatures in relation to the matters within their respective legislative competence. Any amendment enacted by the parliament of Great Britain affecting the legislative competence of either of the parties, without the party's consent, would not only be contrary to the intention of the Statute of Westminster, but it could defeat the whole scheme of the Canadian federal Constitution.

For the government to proceed with this resolution is to ask the members of this House to join it in a conspiracy which could defeat the whole scheme of the Canadian federal Constitution. What could be more threatening to the privileges of members of this House than to be invited to go ahead and assist this government in an act which has been found ultra vires and without the jurisdiction of the Parliament of Canada?

We have ample precedent as to what happened in a previous situation where hon. members were not put in the position of having their privileges breached. I refer to Bill C-60. I have in my hands the Senate report on the Constitution, 1978-79. I wish to quote from page 1:6:

Essential parties to any form of wide-ranging constitutional reform are the provincial governments. Their negative reaction to Bill C-60 is well known.

Then it goes on to say where it was expressed:

Following a challenge, by expert witnesses, of the claimed legal right of Parliament—

Who claimed this legal right? Why, the very government that today claims the same legal right, and has done so for the last six months, that has tied up this honourable chamber, claims which are now found to be improper and illegal.

Following a challenge, by expert witnesses, of the claimed legal right of Parliament to proceed unilaterally on the proposals regarding the monarchy and the House of the federation, the Joint Committee of the Senate and House of Commons on the Constitution adopted a resolution recommending that the question be referred to the Supreme Court of Canada for decision. Shortly afterwards, the Minister of Justice announced that the question is so far as it concerned the House of the federation would be so referred.

There we have an incident occurring several years ago where the same government, in the same way, on a matter of considerably less importance but still important, attempted to tell this House of Commons and our brethren in the Senate that the proposals were ultra vires. Because of a lot of opposition to that position, the matter was referred to the Supreme Court of Canada, with the result that the court held that it was ultra vires and outside the powers of this chamber.

My hon. colleague the hon. member for St. John's East quoted a very pertinent part of the judgment, which I will not quote again, about attempting to do indirectly what one cannot legally attain directly. Let me read one further section from page 49 which is of great moment to members of this House:

"The framers of the British North America Act decided in their wisdom that Canada should not be a unitary state, but a federal one. Canada, however, could in effect be converted into a unitary state if that act could be amended simply at the request of the Canadian Parliament without the concurrence of the provinces. The requisites of the Constitution in a federal state by which the legislative authority of the governing parties are defined, and supremacy circumscribed, must be strictly enforced if the rights of minorities are to be adequately protected."

That is why we have struggled on this side of the House. We want to protect the rights of the minorities and the Supreme Court of Newfoundland has done the same.

Some hon. Members: Hear, hear!

Mr. Crosbie: I have been invited by the government opposite to do this, and this is what the Supreme Court of Newfoundland has said:

"Undoubtedly, the Canadian Houses of Parliament have the constitutional authority, of their own accord, to request the parliament of Great Britain to amend the British North America Act in matters of federal concern only, but in our opinion it has no such authority to request an amendment that would directly alter provisions of that act affecting federal-provincial relations or the powers, rights or privileges secured by the Constitution of Canada to the provinces, without first obtaining the consent of the provinces to such amendment."

Is it any wonder why the Prime Minister (Mr. Trudeau) ran for cover today? He has to get out of this illegal situation in which he has placed this House. But we cannot trust him to do that. We cannot trust him to stop this illegal procedure, to cease breaching our privileges. We have to ask you, Madam Speaker, to force him, by your ruling, to remove this illegality, this illegal conspiracy, from the Order Paper of this House. We must ask you to make sure that the Prime Minister has no option but to withdraw the motion he has put before the House because of its illegality.

I have just one last quotation.
Madam Speaker: Order, please. The hon. member has spoken for quite some time and he is arguing that, this motion being illegal, I should be in a position to say so and prevent it from coming before the House. I have to remind the hon. member that I have already ruled that I cannot do that. This is precisely what the Standing Orders enjoin me not to do. Therefore, that argument will lead the hon. member nowhere in proving to me that he does have a question of privilege.

Mr. Crosbie: Madam Speaker, all I request you to do, in your position as Speaker, is to find that there is a prima facie case. I am not calling on you to find that this procedure is illegal; that has already been done for you by the Newfoundland Court of Appeal. You need worry no more about that. The whole procedure is completely illegal.

Some hon. Members: Hear, hear!

Mr. Crosbie: What I am asking Your Honour to do is to find that there is a prima facie case to be considered, and to allow my colleague the hon. member for St. John's East to move his motion.

I have just one final quotation from pages 54 and 55 of a judgment that is going to go down as one of the great judgments of our judicial history. In 114 years there has not been a judgment which overreaches this judgment. It will go into the books with the Magna Carta.

The learned judge said this:

"Without getting into specifics, it is clear that a charter of rights and freedoms must infringe upon the powers of the provinces to legislate in respect of property and civil rights, as granted by Section 92 of the act of 1867. Further, amendments to the present Constitution of Canada which would affect provincial rights and powers cannot at present be made without provincial consent. Under the proposed amending formulae, there is no doubt (and this is not denied by the Attorney General of Canada) that the rights of one or some of the provinces could be altered, abridged or in fact dispensed with without the consent of those provinces.

Finally, it is patently obvious on the face of it that the provisions of Section 52 of the proposed Constitution Act must affect the rights, powers and privileges of the provincial legislatures as its effect is to render void or repugnant legislation passed within a province which is otherwise 'intra vires' the legislature of that province."

It is very clear what the general nature of this legislation is and that all of the judges of the Newfoundland Court of Appeal found against it. Two of the five judges of the Manitoba Court of Appeal found against it. It is very clear that one can say, at the very least, that there is some doubt about the constitutionality of the resolution that this House has been asked to pass.

I should like to refer to Erskine May's Parliamentary Practice, the eighteenth edition. In looking at this edition of May, I was very pleased to realize that one of the historic cases in the history of privilege is dealt with at page 107. It is Crosbie's case—C-r-o-s-b-i-e; it is not even misspelled, Madam Speaker! At page 107 there appears the following:

In 1640, Sir Pierce Crosbie, sworn as a witness in Lord Strafford's cause, being threatened with arrest, was allowed privilege, "to protect him during the time that this House examine him"

Privilege—Mr. Crosbie

I call now upon the authority of Sir Pierce Crosbie. I had an uncle called Pierce, by the way, Madam Speaker, who apparently was named after Sir Pierce. Here we are, 341 years later and I am arguing a case of privilege before Your Honour. I hope the verdict will go as well as it did in 1640.

Some hon. Members: Hear, hear!

Mr. Crosbie: On page 64 of the eighteenth edition of May, in a discussion of the distinction between function and privilege proper, there appears the following passage:

"The distinctive mark of a privilege is its ancillary character. The privileges of Parliament are rights which are "absolutely necessary for the due execution of its powers". They are enjoyed by individual members, because the House cannot perform its functions without unimpeded use of the services of its members; and by a committee for the protection of its members and the vindication of its own authority and dignity.

If the government is put in a position where it can force the members of this House to make a choice on a resolution or an act where there is grave doubt concerning its legality, then surely the services that we can perform in this House are being interfered with. As a matter of fact, as I mentioned earlier, it is in the nature of a conspiracy to deceive. This subject is dealt with at page 137 of May as follows:

"Conspiracy to deceive either House or any committees of either House will also be treated as a breach of privilege."

This is, in effect, an act of conspiracy by the government to deceive members of this House. How is that? It was an action taken to deceive the members of this House by a resolution brought before the House that was clearly intra vires and within the legislative jurisdiction of this House, when the government knew or ought to have known that there was a very, very serious legal question as to the whole procedure. The government knew from a matter that went to the Supreme Court of Canada two years ago and was found to be ultra vires despite what the government had said was a proper approach.

Is any evidence of this conspiracy needed, Madam Speaker? I would quote to you now from the October 6, 1980, edition of the Toronto Globe and Mail. In an article in that newspaper the present Minister of Justice (Mr. Chrétien) said this:

"As the federal government does not refer its course of action to the Supreme Court of Canada for a ruling on the constitutionality of the process, Mr. Chrétien replied "because the Supreme Court is very unreliable and timing is very important. We have to do it now. The people want us to do it now."

In any case, he said, "I am opposed to that route."

That is the very route that the Prime Minister is suggesting today that he has been brought kicking and screaming to—a route that his Minister of Justice said on October 5 that he was opposed to. He said: "I am opposed to that route!" Well, the Minister of Justice has got the root and he has been brought to the route, and the Prime Minister has now thought better about the route that we are going to be asked to take.

This is why I say this is part of a conspiracy to defeat the proper course of justice in this House. The Minister of Justice himself tried to avoid the Supreme Court, giving as the reason that "the Supreme Court is very unreliable." Yes, the Supreme Court of Newfoundland is a very unreliable one from the point of view of constituted executive authority that wants
to change the nature of this country without the consent of its people and without the consent of its provinces. It has proven to be extremely unreliable from the point of view of the Minister of Justice but very, very reliable from the point of view of the rights and privileges of the members of this House and the people of Canada.

The Prime Minister this afternoon—

Madam Speaker: Order, order. The hon. member is really arguing the substance and I have to stop him from doing that because I need him to argue the matter of privilege. Furthermore, the hon. member has now been speaking for nearly 20 minutes. He does not have to comply with my enjoiner to try to restrict himself to a shorter time in order to allow other members of the House to explain their question of privilege, but I am just asking him to try to do it so that I can be fair to other members.

Mr. Crosbie: Right, Madam Speaker, I agree with your submission. I certainly want to have others give their views on this matter.

I would conclude by saying that the strength of the question of privilege brought by my hon. colleague from St. John's East and presented so well by him in his usual calm and rational approach to problems before this House and the question that I have brought here today has been amply supported by the attitude and remarks of the Prime Minister this afternoon. For the first time he has had to admit that this whole process is an extremely dubious one, and that there are grave constitutional and legal questions about it. He has been shocked by the unanimous decision of the Supreme Court of Newfoundland.

If Your Honour will take this question of privilege under advisement and look at the transcript of his remarks this afternoon, it will be very clear that what he said, in effect, supports the question of privilege we have put before you. I ask you to find a prima facie case so that this question can go to the proper committee to be looked at in a serious fashion and reported back to the House.

Some hon. Members: Hear, hear!

An hon. Member: Madam Speaker—

An hon. Member: Madam Speaker—

Madam Speaker: I am sorry, I said I would hear only one speaker. I would only hear a second speaker if I had any doubts about whether the privilege was founded or not.

Mr. Hnatyshyn: A point of order, Madam Speaker.

Madam Speaker: I want to say to the hon. member for St. John's West that his question of privilege is not quite as good as the other Crosbie's. The other Crosbie's case was about a sworn witness who had been threatened with arrest and therefore the privileges of the House—

Mr. Hnatyshyn: Madam Speaker, I have a point of order.

Mr. Lambert: A point of order, Madam Speaker—

Madam Speaker: Order, please. Members may not raise points of order while the Chair is addressing the House. I will hear any points later on.

Mr. Hnatyshyn: You are assuming—

Mr. Lambert: Madam Speaker—

Madam Speaker: Order, please. Order, please. Will the hon. member resume his seat.

Mr. Lambert: Madam Speaker, I insist—

Madam Speaker: Will the hon. member resume his seat.

Mr. Lambert: I insist that before you make your ruling we be heard.

An hon. Member: Sit down.

Madam Speaker: Order, order. I plead with the hon. member, who was a Speaker in this House and understands—

Mr. Lambert: That is why—

Madam Speaker: —what I am trying to do.

Mr. Lambert: I would never do what you are doing.

Madam Speaker: Would the hon. member please resume his seat.

Mr. Lambert: I would never do what you are doing.

An hon. Member: What a silly thing to say.

Madam Speaker: I want to explain to the House that I have so many questions of privilege to deal with that I am applying a discretion which I applied yesterday.

An hon. Member: It is closure.

Madam Speaker: It is not closure. It is a discretion that the Speaker has and it is given to a—

Mr. Lambert: Only to satisfy—

Madam Speaker: —Speaker for a very good reason, that is, to maintain the flow of debate in the manner in which it should take place in the House. That is the only discretion the Speaker has at this point and that is the one I want to apply. I applied it all day yesterday to the satisfaction of all members. I repeat, I will hear a second speaker only when I have some doubt about whether or not a case of privilege is founded.

In these two particular cases or privilege, members will have to agree with me that the questions brought up were extremely close to the one on which I have just ruled. It is a different court that has made a decision on a matter which hon. members wanted to discuss, but the purport of it is quite close to the one on which I have just ruled. I feel I can rule having heard those two members.
Mr. Lambert: Madam Speaker, I rise on a point of order.

Madam Speaker: Order, please. I was telling the hon. member for St. John's West that his case was not as good as the other Crosbie case to whom privileges of the House were extended. He was not even a member of the House; he was a witness assigned to a particular case. As he was threatened with arrest and would not then be able to testify, the privileges of the House were extended to him. That is not the proper quotation, nor is it an argument that I can take into account in ruling on his question of privilege.

I will have to rule on both questions of privilege separately. I will start with the one raised by the hon. member for St. John's West. Again, the hon. member is referring to the impropriety or to the legality of something or to doubts about its constitutionality. It is quite clear in the Standing Orders that the Speaker cannot rule on the constitutionality of a particular question being discussed in the House. That is not for the Speaker to determine; it is for other authorities in other arenas to have that discussion, certainly not for the Speaker.

The hon. member for St. John's East (Mr. McGrath) also argued questions of legality and questions of constitutionality on which I feel very strongly that I cannot make a pronouncement. I cannot determine these.

Of course, there might be a political argument that the minister should not proceed at this time, but that political argument would be more properly made if and when the motion comes before the House. Both members feel that they are being asked by this House to do something which is illegal and which reflects on their function as a Member of Parliament.

An hon. Member: The court has decided.

Madam Speaker: They know all too well that even if the House were asking them to do something which they feel is illegal or improper, they have the means to deal with it. They will be called upon to vote on such matters.

Some hon. Members: No.

Madam Speaker: I cannot determine that a question is proper or improper. Hon. members are not impeded, nor will they be impeded, from expressing their opinions if and when that motion comes before the House. If they were, I would consider that to be a privilege on which to vote when the proper time comes to do so. Therefore, I cannot find in these two cases a prima facie case of privilege.

* * *

POINT OF ORDER

MR. HNATYSYN—RIGHT OF MEMBERS TO BE HEARD

Hon. Ray Hnatysyn (Saskatoon West): Madam Speaker, I rise on a point of order. I want to choose my words very carefully because I do not want to reflect on the position of the Speaker of this House. It is one which is regarded by members of Parliament with the greatest degree of care. However, I want to underline that the issues we are now discussing, in terms of the point of privilege raised by the hon. member for St. John's East (Mr. McGrath), are matters on which there should be no question to Madam Speaker or to the people of Canada. They are points on which our party is determined to deal with the greatest of resolve as we see appropriate on behalf of our constituents.

Some hon. Members: Hear, hear!

Mr. Hnatysyn: Madam Speaker, before you rose to pass judgment on this matter, I sought the floor on a point of order to request the opportunity to address myself to the specific points of privilege raised by my colleagues.

Madam Speaker, we all know what the rules are. It is so terribly important for you to listen to points of order and requests from the floor with a degree of flexibility, because we recognize there is no appeal from your decision.

Mr. McGrath: We have made you infallible.

Mr. Hnatysyn: As a result, if this House is to function, you should err on the side of listening to points of privilege and the supporting arguments in favour of points of privilege to assure that it cannot be said of you, as Speaker, that somehow you rule arbitrarily after hearing one or maybe two members. Members on the government side take this lightly and laugh and jeer, but I can tell them that the people of my constituency and across Canada are not laughing at the government now.

Mr. Pinard: Order.

Mr. Hnatysyn: My contribution may not have swayed your decision, but I felt I had germane comments to bring forward. If we are to have order in this House, I simply ask and I plead with you to let me know what the rules are going to be. If I feel I have some contribution to make to the debate, am I going to be deprived from making it because I am not the first person to rise? Must I come forward with a new question of privilege every time I want to speak in this House? What will the rules be? I would like to know and I think the rest of the members want to know.

Some hon. Members: Hear, hear!

Madam Speaker: I think I can enlighten the hon. member on what the rules are going to be. The rules are quite clear. In listening to questions of privilege, the Speaker may determine at what time she feels she is sufficiently informed. I explained a while ago, before the hon. member rose on his point of order, why I felt I could rule at that time, namely, that I had already heard one similar question on which I had ruled, and these two questions of privilege were very similar to that on which I had ruled. Therefore, having listened to both arguments, I decided I could make a ruling.
Point of Order—Mr. Hnatsyk

That is the Speaker's discretion. If the hon. member is raising a point of order, he would have to point out that I have been in contravention of one of our rules. I do not feel that I have. I am exercising a discretion. I think hon. members have noticed that I have been exercising that discretion a little more strictly for the past few days. As we go along, members will realize that this is a most unusual situation. We have not been able to reach orders of the day for four days. I think we are on the fifth day now.

Mr. McGrath: That has nothing to do with it.

Some hon. Members: Oh, oh!

Some hon. Members: Order.

Madam Speaker: That is unprecedented.

I have two duties. One is to listen to speakers who have the floor and the other is to listen to those who want to have the floor. I have to exercise a balance between these two things and I am trying to be fair.

Yesterday I heard several questions of privilege and restricted the procedure when I felt that I was sufficiently informed to one speaker. If the first speaker does not convince me that he has a question of privilege and I am sure that another speaker is not personally affected or close to that privilege will be able to convince me further, I will hear him. In order to hear all members and protect all hon. members' freedom of speech, I feel that I have to apply my discretion a little more strictly so I can get to all of the questions of privilege that are before me today.

Mr. Pat Nowlan (Annapolis Valley-Hants): Madam Speaker, I rise on the point of order and I will be very brief. I listened to your ruling and also to the arguments of my friends and colleagues from St. John's East and St. John's West.

I have full appreciation of the delicate situation and the difficulty facing the Chair, especially at this time. Situations like this do occur from time to time in the life of a parliament. I am not talking about all members of the House but about the two members from Newfoundland, confronted with the decision brought down by the highest court of their province which indicated that a certain resolution on the floor of the House has been rendered ultra vires or illegal. We all know what the privilege is—that members are not to be restricted from the performance of their duties.

I ask this for clarification, Madam Speaker. By ruling against the point of order, do I understand that, in effect, we thereby put those two hon. members in the untenable position of condoning an illegal act? Those two members representing Newfoundland constituencies have to follow the precedents and deliberations of their highest court, and by not ruling that there is a privilege in this respect are we, in effect, condoning an illegal act?

Madam Speaker: No. The decision of the Speaker as to whether there is a prima facie case of privilege was simply that the particular question raised does not represent privilege and does not supersede other deliberations in the House. The reason I listened to the question of privilege was that the House might be prevented from functioning if the question of privilege were not dealt with. Therefore, what I have just said is simply that there was not a prima facie case of privilege. The debate can continue under other circumstances and at other times, but if the matter is raised now as a question of privilege, I can only say that there is not a prima facie question of privilege. That is all I have said. The implications and the conclusions the hon. member has drawn from my decision are a bit excessive in respect of what is the limit of my decision and my authority.

Right Hon. Joe Clark (Leader of the Opposition): Madam Speaker, I rise on the point of order raised by my colleague, the hon. member for Saskatoon West (Mr. Hnatsyk), in my capacity as an officer of the House of Commons who shares your concern for the conduct of this House and for the respect we all want to have extended to the Chair.

We have been in unusual circumstances for the last few days, as you have indicated to the House, as a result of measures introduced by the government and as a result of the active interest that has been taken by a number of members on this side of the House by way of questions of privilege and other questions. There have been several questions raised.

There is no question at all but that the Speaker has discretion regarding the conduct of the affairs of the House of Commons. I think no one would question the existence of that discretion.

You have admitted, Madam Speaker, in response to the point raised by the hon. member for Saskatoon West, that you have been very strictly applying your discretion in the unusual circumstances of these last three of four days. I guess the danger I see as someone who respects Parliament, as you do, is that by following and exercising that discretion very strictly in these unusual circumstances you may be establishing a standard which would apply in other circumstances and which would have the effect of limiting, rather than enlarging, the rights of freely elected Members of Parliament to make their cases on questions important to them, to their constituents and to the conduct and the business of this House.

You indicated earlier, I believe, in a comment today that you had been exercising the strictness yesterday as well and there had been no disagreement with or challenge to it. I think it fair to say there were several people who were concerned about the strictness being followed, but there is a long established practice in this House of challenging a Speaker or expressing reservations only with the utmost care. Consequently, it would probably be an error for Your Honour to assume there was agreement simply because there was silence in response to the strictness in which you exercised your discretion yesterday.

An hon. Member: There doesn't have to be agreement.

Mr. Clark: Someone across the floor says it does not require agreement. That is exactly correct. You do not require agree-
ment, you have discretion. You gain, exercise and maintain that discretion by earning respect in all parts of the House of Commons. It is precisely to address that question of being sure this House is able to function effectively that I rise now. I would not want to see imported into the practices of this House precedents regarding the number of people who are to be heard on a question of order or a question of privilege; precedents which are narrower than those that are customary, formed in a period of unusual debate; precedents which in the future might not be confined to periods of unusual debate but might become part of the regular practice of this House, to the detriment of individual members of Parliament whose protection you and I have a particular responsibility to assure.

[Translation]

Hon. Yvon Pinard (President of the Privy Council): Madam Speaker, I hope you will not let the member for Yellowhead (Mr. Clark) intimidate you with this type of argument. What he is attempting to do is to challenge your right to use discretion as you have. Under the Standing Orders you have every right to decide how many members you will recognize on any question of privilege or any point of order. You know that perfectly well and you have acted appropriately.

Madam Speaker, the member for Yellowhead is trying to make us believe that we ought not to establish new practices in the House whereby the Chair, using discretion, would limit the number of speakers on points of order or questions of privilege. However, Madam Speaker, let me say that he is about to establish a new practice which is altogether shameful and unacceptable. Indeed for five days now he has been doing his utmost to prevent the government from proceeding with regular House business. This is the fifth day, Madam Speaker, in which the member for Yellowhead has gone out of his way to frustrate the parliamentary process and prevent us from reaching orders of the day. That practice deserves to be denounced. I find it shameful, unacceptable and hypocritical to the nth degree to see him rise in the House today—

Mr. Clark: Madam Speaker—

Madam Speaker: The hon. minister already has the floor on a point of order. I cannot entertain another point of order while this one is being debated. I will recognize him later.

Some hon. Members: Make him obey the rules.

Mr. Pinard: Well, Madam Speaker, as you have so aptly put it, I am already on a point of order and I cannot be interrupted even by the member for Yellowhead. What I am trying to explain, Madam Speaker, is that in the exercise of your—

Mr. Clark: I rise on a question of privilege, Madam Speaker.

[English]

Madam Speaker: I stand to be corrected, but it seems to me I cannot hear two points of order at the same time.

Point of Order—Mr. Hnatyshyn

Mr. Clark: This is a question of privilege.

Madam Speaker: Privilege in the middle of a point of order?

An hon. Member: You cannot have two points of order.

Madam Speaker: All right. If it is a question of privilege the point of order may be interrupted for that purpose.

Mr. Clark: Madam Speaker, the question of privilege can be resolved very quickly if the President of the Privy Council (Mr. Pinard) withdraws his accusation that I am a hypocrite, that being unparliamentary language but language he just used.

[Translation]

Mr. Pinard: Madam Speaker, I never said that the Leader of the Official Opposition was a hypocrite. I said that his behaviour was hypocritical. That is different, it is not condemned by the authors and it is perfectly parliamentary. So, if I may—

Madam Speaker: Order, please. As a matter of fact, I do not know whether the President of the Privy Council was in the House yesterday when that question was raised, but it had to do with an expression roughly similar to the word just used by the minister and which was not recorded in Hansard but which an hon. member claimed he had heard from another member. The expression did appear on the official record, but not the name of the hon. member, and the hon. member would have wanted me to call to order the other member involved.

Paragraph 1620

First of all, before calling him to order I had to establish whether the word was parliamentary or not. In Beauchesne it appears in both the list of parliamentary expressions and the list of unparliamentary expressions. So I said I thought that expression was not quite appropriate for the House of Commons Debates and I would ask the hon. minister to use it as little as possible. I know he did not address it directly to—

Some hon. Members: No, no!

Madam Speaker: —he did not address it directly to the right hon. Leader of the Opposition. Still I think he would make things easier for the House if he were to withdraw that word and replace it by another one more acceptable.

Mr. Pinard: Very well, Madam Speaker, if I can use this as an example to show my colleagues opposite that I respect your authority in this House. I shall be happy to withdraw the word “hypocritical” which I used even though it expresses my feelings quite correctly. I shall withdraw it unequivocally. All I can say is that the behaviour of the Leader of the Opposition in intervening at this stage, after five consecutive days during which, as admitted by his House leader, his party has systematically wasted the time of the House, is totally unaccept-
Point of Order—Mr. Hnatyshyn

able, especially since what he was trying to do was to question your judgment. He complained about the fact or expressed the fear that a practice would develop in this House whereby the Speaker using discretion would limit the number of members who could speak on certain matters. Yet, not only the spirit, but also the letter of our rules states clearly, Madam Speaker, that it is your duty when you are convinced that there is no privilege involved to stop the interventions so that this Parliament can operate in an orderly fashion.

What the right hon. member is now advocating today, in a manner which is far from open, is quite simply to maintain disorder in the House. In his intervention, Madam Speaker, he seems to advocate disorder, and I find this unacceptable. I want to say, Madam Speaker, that we, on this side of the House, wish to proceed with the business of the House and get on with our work in Parliament, and it is a shame that the Leader of the Opposition would lead a team which has been trying to demolish the Canadian Parliament for the last five days.

[English]

Hon. Walter Baker (Nepean-Carleton): Madam Speaker, I rise on the same point of order. What the Leader of the Government is doing—in a way that displays the heat that indicates the pressure under which he has found himself in the last little while—is almost coming to the point where he is defending an illegality which was admitted today by the Prime Minister (Mr. Trudeau) in the offer he was making. Unfortunately for the government House leader, he is using language and phraseology with respect to the Right Hon. Leader of the Opposition (Mr. Clark) which Your Honour yourself has said is not conducive to the appropriateness of debate in the House. When he withdrew one, he used another one which is not appropriate to debate in the House of Commons.

What the Leader of the Opposition was trying to do—and if the Leader of the Opposition was out of order, Your Honour would have called him to order—was to bring to the attention of the Chair a concern he has as a leader in the House of Commons. As an officer of the House, I thank Your Honour for listening to him and for recognizing his intervention for what it was, a real attempt to be helpful to the Chair.

As Your Honour has said publicly, it has been our objective not to do anything that is other than helpful to the Chair.

Some hon. Members: Oh, oh!

Mr. Baker (Nepean-Carleton): I have to say that I am not very interested in being helpful to the government, but I am interested in being helpful to the Chair. All of us are.

Hon. Bryce Mackasey (Lincoln): Madam Speaker, I rise on the same point of order. I do not pretend to be a procedural expert, nor have I heard too many in recent weeks, but I am fascinated, perhaps because I am not a member of the legal profession, to listen.

I am impressed by the standard which Your Honour has set in the last week or ten days. I think the Right Hon. Leader of the Opposition (Mr. Clark) referred briefly to the standard of excellence which has characterized Your Honour’s performance in the Chair.

Some hon. Members: Hear, hear!

Mr. Mackasey: When I first came here—and this is very relevant—I was overwhelmed by the number of expert references on this subject: Bourinot, May, Beauchesne; I could go on and on. I think it was the minister of transport of the time, Mr. Pickersgill, who said that the best rule of thumb in parliamentary procedure is common sense.

I was induced to participate in this point of order when I saw the hon. member for Edmonton West (Mr. Lambert) refusing to take his seat when requested to do so by Your Honour. This would be unpardonable enough if it was a member such as myself or my good friend from down east, the hon. member for Annapolis Valley-Hants (Mr. Nowlan), but the hon. member for Edmonton West is a former Speaker of the House of Commons and he more than anyone else should know that, when requested by the Speaker to take his seat, he should take his seat and set an example for all of us. I am appalled. When I arrived here in 1962, the hon. member for Edmonton West was the Speaker of the House of Commons, and he should set an example for this debate.

What have we had for eight or ten days? There have been questions of privilege. I am not particularly appalled at what is occurring in the House. The rules are there to be used. Rules are there to make debate equal. What I am a little concerned about—but that is not what I am discussing at the moment—is the abuse of those rules.

It worries me when members stand and say that Your Honour has spent too much time or not enough time in determining whether a prima facie case of privilege exists. Surely it is inherent in the rules that Your Honour and only Your Honour can determine whether you want more argument, whether the contributions being made are becoming repetitive or whether, because of the fact that you are hearing questions of privilege or apparent questions of privilege day in and day out and month in and month out, you can come rapidly to the conclusion that certain questions are not questions of privilege.

If this House is to function, we must appreciate that Your Honour and only Your Honour can make such decisions. We are—unintentionally, perhaps, and none of us is without sin—undermining—

Some hon. Members: Oh, oh!

Mr. Mackasey: This is funny to some hon. members opposite who have not been around here long enough, and may not be around here long enough, to get an appreciation for the dignity of the House of Commons, on which I do not presume to have any monopoly. I know some hon. members opposite care as deeply as I do about the House of Commons, but I know one thing, and that is that this place cannot function if we unintentionally—or intentionally, worse still—undermine
the dignity and the apparent impartiality, in the opinion of some people, of the Speaker. That is the most important function in the House of Commons.

As was said the other day, the Speaker of this House of Commons is more important in the House of Commons than the Prime Minister (Mr. Trudeau), the Leader of the Opposition or any particular member. I must say on this point of order that it is important to the point that Your Honour has conducted herself with impartiality, with integrity, with wisdom and with patience over the last ten days.

Mr. Taylor: Flattery will get you nowhere.

Mr. Mackasey: Hon. members opposite do not agree. I am sorry they do not. I do not question their right to disagree, but I happen to believe that we are blessed with a great Speaker and that the last ten days has proved that.

Some hon. Members: Hear, hear!

Madam Speaker: Order, please. If the hon. member continues, he will embarrass me. He will be making a serious reflection on a member of this House.

Contributions to points of order should be kept extremely brief, and I ask that of the hon. member because others also want to speak.

Mr. Mackasey: Madam Speaker, I do not want to embarrass you with the truth, and I will not embarrass you as the hon. member for Edmonton West did by refusing to accept your instruction to sit down when you were on your feet.

If we are going to operate over the next week, two weeks or one month along this vein—it is quite conceivable we might—then surely to goodness all of us can understand the importance to the whole procedure of the role of the Speaker. We are lucky enough to have a good one. Let us not destroy her.

Mr. Benno Friesen (Surrey-White Rock-North Delta): I rise on that point of order, Madam Speaker. Just to be sure, you were addressing yourself to the question of privilege raised by the hon. member for St. John's East (Mr. McGrath) at a point when the hon. member for Saskatchewan West (Mr. Hnatyshyn) and the hon. member for Cambridge (Mr. Spéry) were rising to speak on that question of privilege and you ruled that you had already heard enough on that question. With respect, I submit that the only way you could make that judgment is if in fact those two hon. members were speaking and adding nothing new, and with that in mind I respectfully request that you hear them to see whether they were simply being repetitive.

Madam Speaker: I am sorry, I cannot comply with the hon. member's request because I have already ruled on the matter. I guess it is implicit in my decision that I thought I was sufficiently informed and that some of the same arguments were surfacing, namely the constitutionality, legality and propriety of a certain thing. However, I thank him for his suggestion.

Mr. Donald W. Munro (Esquimalt-Saanich): I rise on the same point of order, Madam Speaker. If I heard the government House leader correctly, he said that the Right Hon. Leader of the Opposition (Mr. Clark) was advocating disorder in this House. That statement goes beyond normal political debate, because if there is anyone staying within the rules, it is members on this side of the House. That is quite clear. The only side of this House which is attempting to rewrite the rules and proceed with a matter which could be illegal is the government side. It is obvious, if you look at the motion, that at least in four instances the Standing Orders are to be either disregarded or rewritten. I do not think that it falls properly on the Leader of the Government to suggest that this side is being disorderly when the government is trying to rewrite the Standing Orders.

In light of a provincial supreme court’s ruling that what we are doing here is beyond the competence of Parliament, and with two justices of another provincial Supreme Court having come to the same conclusion, there is at least the argument that what we are doing is of questionable legality.

Madam Speaker: Order. The hon. member is now arguing the substance of the question on which I just ruled. We are now on a point of order and I ask the hon. member to refer to that and not to the ruling.

Mr. Munro (Esquimalt-Saanich): The point of order was that on more than one occasion you have said that you are not called upon to rule on the legality or constitutionality of, or to give a legal opinion on, a matter under discussion; you backed away on those grounds and I think that is quite right. However, no one on this side asked you to give a legal opinion or make a ruling on constitutionality. You were merely asked to have a matter brought to the floor for a vote so that the issue could be referred to a committee for decision. With all respect, Madam Speaker, you are not being asked to make a legal ruling or one on a matter's constitutionality; no one would ever presume to do that.

Madam Speaker: It goes without saying that I dissociate myself from this debate, but I think I have to comment on some aspects of it and I wish to read to hon. members from Erskine May. Under the heading “Speaker’s Discretion in Permitting Matter to be Raised”, at page 346 it says:

As a motion takes at the time for matters of privilege is thereby given precedence over the pre-arranged program of public business, the Speaker requires to be satisfied, both that privilege appears to be sufficiently involved to justify him in giving such precedence (or, as it is sometimes put, that there is a prima facie case that a breach of privilege has been committed); and also that the matter is being raised at the earliest opportunity. If he is not so satisfied when the circumstances are first brought to his attention privately—

That is, when the hon. members give me written notice of their question of privilege. On occasion the Table officers have contacted hon. members to point out that they did not have a question of privilege and to indicate how they might otherwise seek redress, and some members have then decided to with-
Point of Order—Mr. Hnatyshyn
draw their question of privilege. However, that refers to the practice where:
If he is not satisfied when the circumstances are first brought to his attention
privately, he may inform the member that he is not entitled to raise the matter
as a question of privilege—
Which we in this House never do.
In the United Kingdom the practice is quite different and
goes to the point where the Speaker rules on the question of
privilege on the basis of the written statement and does not
hear members in the House. Or he may allow a member to
make a statement with a view to ascertaining whether or not a
prima facie case can be made out. That is where the discretion
of the Speaker can be exercised.
As to the comment made by the Right Hon. Leader of the
Opposition, I do not think I said I was applying this discretion
strictly but that I was progressively applying it more strictly.
That did not mean that I would cut off debate inevitably after
one speaker; rather, I will cut it off when I feel I am
sufficiently informed, and that is the latitude that the Speaker
has. The Right Hon. Leader of the Opposition fears that I am
going into precedents and that this practice might be applied
to other circumstances. Well, no. The discretion of the House
has been used in different ways, listening to several speakers or
just one. So the precedents are on both sides and I am not
departing from any custom of this House in doing what I have
been doing today and on previous days.
I am not inventing a new rule, it is already there; the
practice is established and I am applying it in my discretion.
Of course, I do not deny that and I think hon. members would
recognize that I have that discretion. I want to assure them
that I apply that discretion only when I feel, from the written
statement to begin with and then from the statement made in
the House, that I am sufficiently informed and ready to rule. I
want to give hon. members the absolute assurance that I am as
careful as possible not to deprive them of the ability to bring
up or better explain a question of privilege if I have the least
doubt about it.

Furthermore, I want to say that no one in the House is
violating the rules. If any members were, it would be my duty
to prevent them, to call them to order, to reprimand them or to
impose the sanctions I can impose on hon. members when they
are violating the rules. At the present time, none of them is
violating the rules; that is the statement with which I must
associate myself.

Mr. Gordon Taylor (Bow River): Madam Speaker, I was
elected by the people of my constituency to help keep Canada
together. I object to the name-calling of the hon. minister
when he described myself and other members on this side of
the House as a demolition gang.

We are not a demolition gang. We are helping to build
Canada. If Canada is being destroyed, it is members on the
government side who are doing it; their policies are doing it.

Certainly the minister will not help things in Canada by
calling names, particularly untrue ones. I am not part of a
demolition gang; I am part of a building gang trying to save
Canada from the Liberals.

An hon. Member: Name-calling.

Mr. Andre: What a terrible thing to say.

Madam Speaker: If I may speak to this point of order, the
expression is not parliamentary. The hon. minister expressed
his opinion in his way, and the hon. member for Bow River
(Mr. Taylor) expressed his opinion. I must leave it at that. The
particular expression was not parliamentary.

Hon. Erik NIELSEN (Yukon): Madam Speaker, I just wanted
to intervene very briefly on the point of order of the hon.
member for Bow River (Mr. Taylor).

An hon. Member: He did not have a point of order.

Mr. Nielsen: Then I will raise my own. If the President of the
Privy Council (Mr. Pinard) gets snarly, as he is, then I will
raise my own point of order.

When we were in office from October 9, 1979, until December
14, 1979, the hon. member for Lincoln (Mr. Mackasey)
was basking in the chairman's chair of Air Canada. During
that time, without counting the allotted days, there were 49
sitting days. During that time, 231 of those government members
who are trying to tar this party with the brush of
obstructionism raised a combined total of 130 questions of
privilege and points of order.

Some hon. Members: Oh, oh!

Mr. Nielsen: When they speak of demolition gangs, let them
examine their own record. Before they start throwing stones,
let them examine their own record.

We were prevented, during those few short sitting days,
from doing anything in Parliament. It was a deliberate effort
made by hon. members opposite, when they were sitting in
opposition, to prevent us from doing everything we wanted to
do. We were not talking about the Constitution, something so
basically and fundamentally important to our land; we were
talking about economic measures to assist Canadians. But let
them not cast the first stone, in view of their own dank, dark,
bleak record.

Some hon. Members: Hear, hear!

* * *

PRIVILEGE

MR. CORBETT—DESIGNATION OF MR. LeBLANC AS MINISTER
RESPONSIBLE FOR NEW BRUNSWICK

Mr. Bob Corbett (Fundy-Royal): Madam Speaker, my ques-
tion of privilege arises out of the question period yesterday
when I put a question to the minister the Prime Minister (Mr.
Trudeau) has designated as the minister responsible for New