Judicial Review of the Legislative Process

The Case of Manitoba Language Rights

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"Simultaneity of the use of both English and French is ...required throughout the process of enacting bills into law."

"All unilingually enacted laws of the Manitoba Legislature are, and always have been, invalid and of no force or effect."

With those few blunt statements, the Supreme Court of Canada has, in the most dramatic case imaginable, clarified the law on the legal effect of non-compliance with the constitutional rules of legislative process by which the Canadian legislatures and Parliament are governed.[1] We now know for a certainty that the effect of such non-compliance is the utter nullity of the statutory product of the process.

Parliamentary Sovereignty and Judicial Review

Prior to the *Manitoba Language Rights* case, the effect of non-compliance with procedural rules was controversial. British courts consistently referred to Dicey's theory of parliamentary supremacy and inevitably referred to Lord Campbell's dictum in *Edinburgh Railway Co.* v. *Wauchope*:[2]

> All that a Court of Justice can do is to look to the parliamentary roll: if from that it should appear that a bill has passed both Houses and received the Royal assent, no Court of Justice can inquire into the mode in which it was introduced into Parliament, nor into what was done previous to its introduction, or what passed in Parliament during its progress in its various stages through both Houses.

This has been called the theory of conclusiveness.[3]

When the same British courts turned to Commonwealth constitutions, however, the results were uneven and, some would even say, surprising, since such constitutions were written and provided the formal authority to legislate. The dichotomy of opinion, however, soon suggested a system of logic that permitted the harmonization of Dicey's theory with the traditional role of courts in the federal systems of other Commonwealth nations.

Parliamentary supremacy was at issue and was relied upon only when the procedural rules that a legislature breached were contained in the Standing Orders of its assembly or in a statute of the legislature. Thus mere breach of a standing order by the assembly was of no legal consequence. Standing Orders have always been routinely overridden by "leave" or unanimous consent of the members of an assembly. The making and unmaking of its rules of procedure by simple order are the very essence of the absolute privilege of a deliberative assembly[4] to manage its own internal affairs, and such action is therefore not reviewable in the courts. Nor is failure to observe the Standing Orders. Such questions are raised by point of order in the assembly and are finally determined by the Speaker, unless they are appealable to the assembly.

The point was more recently determined by the House of Lords in *British Railways Board* v. *Pickin*. Asked to find

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that the Standing Orders respecting private bill procedure had been breached, Lord Reid declared:

> The function of the court is to construe and apply the enactments of Parliament. The court has no concern with the manner in which Parliament or its officers carrying out its Standing Orders perform these functions. Any attempt to prove that they were misled by fraud or otherwise would necessarily involve an inquiry into the manner in which they had performed their functions in dealing with the Bill which became the British Railways Act 1968.

And Lord Morris of Borth-y-Gest added:

> It must be for Parliament to lay down and to construe its Standing Orders and further to decide whether they have been obeyed: it must be for Parliament to decide whether in any particular case to dispense with compliance with such orders.[5]

When legislative process is governed by ordinary statute, the issue of parliamentary supremacy is very real. The result appears to be the same, although the logic is more difficult to reconcile with the rule of law.

A mere order of the House would not be considered in a court of law to be, strictly speaking, sufficient to override a statute directed to the internal procedure of the House. That, however, was the effect of the decision in *Bradlaugh* v. *Gossett* which stands for the following proposition:[6]

> ...a resolution of the House of Commons only cannot change the law of the land. ...and yet, if the House of Commons is ...the absolute judge of its own privileges, it is obvious that it can...practically change or practically supersede the law.

A further statement in the same case reinforces the impact of parliamentary privilege on the judicial review of non-compli ance by a House of Parliament with a statutory rule of procedure:[7]

> ...the House of Commons is not subject to the control of Her Majesty's Courts in its administration of that part of the statute-law which has relation to its own internal proceedings ....

Statutes governing legislative process are quite rare but do exist. The controlling factor of parliamentary privilege suggests that it is not advisable to legislate parliamentary procedure where another avenue is available.

Constitutional Rules of Procedure

These preliminary remarks on the unenforceability of Standing Orders and statutes that purport to bind legislatures to a special process serve to place in stark contrast the effect of non-compliance by legislatures with constitutionally entrenched rules of procedure.

Section 133, Constitution Act, 1867

The *Manitoba Language Rights* reference has set procedural standards for the Canadian Parliament and legislatures that they may not be honouring in every case.

For example, Standing Order 110 of the House of Commons reads as follows:

> **110.** All bills shall be printed before second reading in the English and French languages.

The implication of the rule is that bills may be introduced and receive first reading in one language, which has occurred from time to time. That, however, would appear to amount to a technical breach of section 133 of the Constitution Act, 1867 as interpreted by the Supreme Court of Canada in the Manitoba case. Simultaneity of the use of both languages is required throughout the process.

An earlier version of Standing Order 110 was clearly in breach of the constitutional rule as we now understand it. Between 1867 and 1876, the bilingual process was governed by Standing Order 93 which read as follows:

> **93.** All Bills shall be printed, before the Second Reading, in both languages, *with the exception of Bills exclusively relating to any one or more Provinces other than the Province of Quebec, which may be printed in English only,* unless otherwise required by The House; or Bills merely continuing Acts, or other short Bills of minor importance, with the printing of which The Speaker or the House may dispense. [Emphasis added].

Presumably, an Act that went through the entire process in English only, although in conformity with Standing Order 93, is and always has been invalid and of no force or effect. On the other hand, a bill that was introduced and received first reading in English only but that cleared every subsequent stage of the process in both languages presents a more difficult question. One could argue that in the latter case, there has been substantial compliance with section 133 of the Constitution Act, 1867, particularly in the light of its rather general language:

> **133.** Either the English or the French Language may be used by any Person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and *both those Languages shall be used in the respective Records and Journals of those Houses;* and either of those Languages may be used by any Person or in any Pleading or Process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.

The Acts of the Parliament of Canada and of the Legislature of Quebec *shall be printed and published in both those Languages.* [Emphasis added].

A very recent case that opens the door to the recognition of a doctrine of substantial compliance is the case of *Waite* v. *The Queen*, a decision of the Manitoba Court of Appeal rendered on May 27, 1987 that turned on the interpretation of section 23 of the Manitoba Act, 1870, the Manitoba equivalent of section 133.

Under consideration was the scope of the expression "the process of enacting bills into law" used by the Supreme Court of Canada in the *Manitoba Language Reference* case when it ruled:

> Simultaneity of the use of both English and French is...required *throughout the process of enacting bills into law.* [Emphasis added].

The facts of the case indicated that the Order Paper and Notices, Votes and Proceedings and other documents of record were not entirely bilingual. The court found as a matter of law that there had not been full compliance with the requirement of the Supreme Court of simultaneity of the use of both English and French throughout the enactment of a bill into law.[8]

As for the language of the bill at the various stages of the enactment process, the court found as a fact that royal assent had been given to the bill in both languages and that it was so recorded and signed by the Lieutenant-Governor and the Clerk of the Legislative Assembly respectively. The three readings, however, were "recorded" or endorsed in English only, and the court was not certain that the notation must be endorsed in both languages.[9]

The Court of Appeal was unclear as to whether or not the bill had actually been submitted to the Legislature in both languages and whether both versions had been read three times. The court appeared to attach less importance to this essential point than to the fact that the Act was available to the public from the Queen's Printer in bill form in both English and French as of July 2, 1985, several days after royal assent, which took place on June 26, 1985.[10]

The court ruled that although there were some deficiencies in the enactment process, the record pointed to substantial compliance with s. 23 of the Manitoba Act, 1870, and that the requirements of the section had therefore been met.[11] One can only wonder what the Supreme Court would say on similar facts.

One wonders also about the importance of simultaneity of the use of both languages. Back in 1906 there was apparently a problem with the federal statute revision and specifically with the preparation of the French version. According to a recent article,[12] and according to Pigeon J.[13], the 1906 Revised Statutes of Canada were brought into force at first in the English version only. An Act respecting the Revised Statutes, 1906, assented to on January 30, 1907, purported to ratify in section 3 what had already been proclaimed as the Revised Statutes under a 1903 Act, which was the usual Act establishing the commission, their powers and the enactment procedure (proclamation).

With the statutory ratification by the Act of 1907 of the proclaimed English version and of a non-existent French version, which had yet to be prepared and deposited with the Clerk of the Parliaments,[14] it is clear that there was a substantial hiatus between the enactment of the English version and that of the French version of the Revised Statutes of Canada, 1906. The implications of such a breach of the simultaneity rule intended by section 133 of the Constitution Act, 1867 may be fully realized when one considers another statement of the Supreme Court of Canada in the *Manitoba Language Reference* case:[15]

> The heart of the 1980 Act is s. 4(1), which authorizes the bilingual promulgation of legislation in two stages: (i) the enactment of a statute in one official language only; and (ii) subsequent translation into the other official language. The translation, once certified and deposited with the Clerk of the House, is deemed "valid and of the same effect" as the formally enacted version.
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> This procedure is insufficient to satisfy s. 23 of the *Manitoba Act, 1870*. Bilingual enactment is required by s. 23 and unilingual enactment, followed by the later deposit of a translation, is not bilingual enactment.

Other Constitutional Rules

The problems presented by section 133 and its sister provision, section 23 of the Manitoba Act, 1870, are manifold. However, other sections of the Constitution Act, 1867 may become subject to judicial scrutiny as well. Sections 53 and 54 are the most obvious candidates. Earlier courts, believing themselves bound by the dictum of Lord Campbell, did not see these provisions as enforceable. They have since been proved wrong, and not solely on the basis of the supremacy provision in section 52 of the Constitution Act, 1982. *Ranasinghe*, which the Supreme Court followed in the *Manitoba Language Rights* reference, established the common law rule that courts would strike down "legislation" which on its face had not been enacted in compliance with the rules of process prescribed by a written constitution.[16]

Eminent jurists have been confused by the implications of the rule of conclusiveness, an offshoot of Dicey's theory of supremacy. In his celebrated article entitled "Money Bills

and the Senate", Elmer Driedger characterizes sections 53 and 54 as follows:

> Section 53 deals particularly with an exclusive privilege of the Commons in relation to the Senate, and it is reasonable to assume that section 18 does not deal with the kind of privilege under discussion. Section 54 is a limitation on the House of Commons and not a privilege.

On the issue of a breach of those provisions, he invokes conventional wisdom that did not see any scope for judicial review:

> On occasion, the Senate has amended money bills and the question arises whether this can constitutionally be done. In England the Lords have made amendments to money bills and the amendments have been accepted by the Commons. This is regarded as a waiver of their privilege. But can the Commons in Canada waive the privilege conferred by section 53? It could hardly be contended that the Commons could confer a power on the Senate in violation of the B.N.A. Act. But non-compliance with either section 53 or 54 would apparently not affect the validity of the statute. Once an act of Parliament has passed, it must be taken as the law so that when a statute appears on its face to have been duly passed the courts must assume that all things in respect of its passage have been rightly done.
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> If the validity of the statute cannot be questioned then it would seem that the Commons could accept any Senate amendment, and the statute, when it receives royal assent, must take effect according to its terms. The enforcement of sections 53 and 54 would therefore appear to be a matter for Parliament rather than the courts.[17]

In making his assertion, Driedger referred to *Edinburgh Railway* v. *Wauchope* which, however, was a standing order, not a constitutional, case. He also referred to the Canadian case of *The King* v. *Irwin*. The court in that case decided that the Act in question did not fall within the ambit of section 54 of the B.N.A. Act because it imposed fees for service rather than a charge on public revenue; nevertheless, it repeated the conventional wisdom of the English courts in respect to the legal effect of standing orders and ordinary statutes embodying procedural rules, applying it to written constitutions as well:[18]

> ...it is no part of the business of the Court in construing a statute to enquire as to whether the legislature in passing it did or did not proceed according to the *lex parliamenti*. It is a matter of elementary law that when a statute appears on its face to have been duly passed by a competent legislature, the courts must assume that all things have been rightly done in respect of its passage through the legislature, and cannot entertain any argument that there is a defect of parliamentary procedure lying behind the Act as a matter of fact. It is a case where the maxim *Omnia praesumuntur rite esse acta* applies with great force and rigour. It is for Parliament to decide how they will proceed to legislate and it is only the concrete embodiment of such legislation -- the statute itself -- that the Court is called upon to construe.

An earlier case had asserted much the same thing. In *Powell* v. *Apollo Candle Co. Ltd.*, the Privy Council held that an Australian constitutional provision similar to our section 53 was directory in nature and that a failure to observe it did not have the effect of rendering the bill or part of the bill *ultra vires*. The Court reiterated that it was impossible to hold that the words of an Act, which do no more than prescribe the mode of procedure with respect to certain bills, should have the effect of limiting the operation of those bills.[19]

The most recent case prior to *Re Manitoba Language Rights* was *Re Agricultural Products Marketing*, [1978] 2 S.C.R. 1198. One of the issues was the effect of a breach by Parliament of section 54 of the Constitution Act, 1867.

Laskin C.J. for a minority of four judges avoided the issue by declining to characterize the levies or charges imposed on the marketing of eggs as taxes:[20]

> In the present case, I need not come to any definite conclusion as to whether ss. 53 and 54 lay down prescriptions which are cognizable in the Courts. In my opinion, for reasons that follow, I do not agree that the levies authorized by s. 2(2) can be characterized as taxes, having regard especially to the context in which authority to impose or exact them is given. They are merely ingredients of a regulatory scheme and fall to be considered as elements thereof.

Laskin's reasons are, however, of some interest for their treatment of the British precedents, particularly of the cases of *Wauchope* and *Pickin*, referred to above, that had been relied on by the Ontario Court of Appeal:[21]

> British precedents were relied upon by the respondents although not based upon the terms of a fundamental written constitution, and they were relied upon by MacKinnon J.A. in his holding that conformity to s. 54 was not reviewable by the Courts once the legislation was enacted. Reliance was also placed upon the preamble to the *British North America Act*, referring to a "constitution similar in principle to that of the United Kingdom". I do not think that this carries any force against express enactment. It may help to identify constitutional elements just as the British precedents may help to determine what is meant by any of the terms used in ss. 53 and 54, but I do not agree that they can control the determination of the question whether obedience to the prescriptions of those sections is judicially reviewable.

Pigeon J., writing for a majority of five judges, agreed with Laskin's point that the levies could not be characterized as

taxes for the purposes of sections 53 and 54, but added the following dictum:[22]

> Furthermore, ss. 53 and 54 are not entrenched provisions of the constitution, they are clearly within those parts which the Parliament of Canada is empowered to amend by s. 91(1). Absent a special requirement such as in s. 2 of the *Canadian Bill of Rights*, nothing prevents Parliament from indirectly amending ss. 53 and 54 by providing for the levy and appropriation of taxes in such manner as it sees fit, by delegation or otherwise.

Although section 91(1) has been repealed with the enactment of the amending procedure in Part V of the Constitution Act, 1982, section 44 of that Part appears to be in the same position as section 91(1) had been. One therefore wonders whether Pigeon J. would be of the same view today whereby he would deem any breach of sections 53 or 54 to be an indirect amendment of those sections.

Because of the rule of law, to which the Supreme Court attached such considerable importance in *Re Manitoba Language Rights,* one wonders how, particularly in light of the primacy of the constitution (section 52 of the Constitution Act, 1982), a statute that is in breach of the legislative process prescribed by the constitution can be deemed to be a law amending it. One suspects that the Court today would have to distinguish the dicta of the above-cited cases on the basis of its rejection in *Re Manitoba Language Rights* of the existence of "directory" provisions in the constitution[23] and its clear and unanimous statement of principle that legislation which had not been enacted in compliance with the appropriate constitutional "manner and form" requirements was invalid.[24] What is interesting about the Court's most recent statement of principle, which seems to put to rest the dicta referred to above, is that the Court asserted the legal rule to be the same after 1982 as it had been previously:[25]

> Section 52 of the *Constitution Act, 1982* does not alter the principles which have provided the foundation for judicial review over the years. In a case where constitutional manner and form requirements have not been complied with, the consequence of such non-compliance continues to be invalidity. The words "of no force or effect" mean that a law thus inconsistent with the Constitution has no force or effect because it is invalid.

While the case of *Bribery Commissioner* v. *Ranasinghe* received only the briefest comment by the Supreme Court of Canada in *Re Manitoba Language Rights,* it was approved by the Court for its main proposition of the supremacy of the constitutional rules of the legislative process. The case is therefore of signal importance to our appreciation of the potential scope for judicial review of the legislative process. The Ceylon constitution required a two-thirds majority vote of the House of Representatives as certified on the bill by the Speaker in order to validly amend the constitution in respect to the appointment of judicial officers. Absent the Speaker's certificate, which was considered to be an essential part of the legislative process, the Privy Council held that the legislation was invalid and, in doing so, distinguished the earlier supremacy cases of the British courts.[26]

> The English authorities have taken a narrow view of the court's power to look behind an authentic copy of the Act. But in the Constitution of the United Kingdom there is no governing instrument which prescribes the law-making powers and the forms which are essential to those powers. There was, therefore, never such a necessity as arises in the present case for the court to take any close cognisance of the process of law-making. In *Edinburgh Railway Co.* v. *Wauchope* , however, Lord Campbell said: "All that a court of justice can do is to look to the Parliamentary roll." There seems no reason to doubt that in early times, if such a point could have arisen as arises in the present case, the court would have taken the sensible step of inspecting the original.

In a further statement, the Privy Council declared:

> ...a legislature has no power to ignore the conditions of law-making that are imposed by the instrument which itself regulates its power to make law. This restriction exists independently of the question whether the legislature is sovereign....

And finally:

> ...where a legislative power is given subject to certain manner and form, that power does not exist unless and until the manner and form is complied with.[27]

Other than sections 133, 53 and 54, additional provisions of the Constitution Act, 1867 may present issues for judicial review. Section 48 requires the presence of at least twenty members of the House of Commons for it to exercise its powers. Section 35 requires the presence of at least fifteen senators for the Senate to exercise its powers. Section 55 governs the royal assent procedure.[28] Finally, the entire Part V of the Constitution Act, 1982 relates to the rules of procedure for the amendment of the constitution itself. These latter rules, clearly, will be enforced strictly by the courts.

The Problem of Parliamentary Evidence

A paper on judicial review of the legislative process would hardly be complete without some comment on the problem of parliamentary evidence.[29] Much has been made in the past of the dangers for courts to inquire into the internal affairs of a House of Parliament. Article 9 of the Bill of Rights, 1689

is pointed to as the bulwark of parliamentary privilege that prohibits courts from embarking on such inquiries. The theory of conclusiveness and Lord Campbell's dictum referred to at the outset were part and parcel of judicial policy on the subject. Neatly packaged, such policy became known as the "enrolment rule". The most cogent explanation for the policy was given by the House of Lords in *Pickin*.[30]

> For a century or more both Parliament and the courts have been careful not to act so as to cause conflict between them. ...It is well known that in the past there have been dangerous strains between the law courts and Parliament-- dangerous because each institution has its own particular role to play in our constitution, and because collision between the two institutions is likely to impair their power to vouchsafe those constitutional rights for which citizens depend on them. So for many years Parliament and the courts have each been astute to respect the sphere of action and the privileges of the other -- Parliament, for example, by its sub judice rule, the courts by taking care to exclude evidence which might amount to infringement of parliamentary privilege (for a recent example, see *Dingle* v. *Associated Newspapers Ltd.* [1960] 2 Q.B. 405).

What should now be clear, at least since the *Manitoba Language Rights* reference, is that in matters of constitutional adjudication, the enrolment rule is dead. Whether it was ever, strictly speaking, a rule of law, it has certainly not been part of Canadian judicial policy for a considerable length of time. Canadian courts and, in particular, the Supreme Court of Canada routinely read excerpts of *Hansard* into the judicial record in constitutional cases. Although such practices are technically breaches of parliamentary privilege,[32] the United Kingdom and Canadian parliaments have not insisted on that aspect of their privilege in modern times. The problem with such a rule, which should now be considered no more than a "dignified" area of the *lex parliamenti*, is that it competes with a more compelling need for courts to fairly adjudicate justiciable issues on the basis of all the available facts. When such issues involve the compliance by parliaments with constitutional rules defining their legislative processes, the application of any so-called theory of conclusiveness or enrolment rule seems particularly inapt. ✳

Notes

1. *Re Manitoba Language Rights,* [1985] 1 S.C.R. 721 at pp. 775 and 767. A recent ruling by Speaker Carter before the Legislative Assembly of Alberta (See Alberta Hansard, April 9, 1987, pp. 698-701) on the legal question as to the right of a member to speak French in the assembly appears to beg the very question suggested by our analysis here: assuming the existence of a binding constitutional rule imposing a bilingual legislative process or conferring a right to speak French in the assembly, what is the effective remedy for non-compliance and what are the limits to judicial review of the legislative process? In other words, how far are the courts, on the one hand, and the legislatures, on the other, willing to go to confront each other in the exercise of their respective jurisdictions? These questions may be ultimately determined with the rendering of Supreme Court of Canada decisions in cases such as *Mercure* v. *A.G. of Saskatchewan* (decision reserved on November 27, 1986).

2. *Edinburgh Railway Co.* v. *Wauchope*, (1842) 8 Cl. & F. 710, at p. 724 (H.L.).

3. See E.A. Driedger, *Construction of Statutes,* (2d ed.), Butterworths (Toronto), 1983, p. 236.

4. Article 9, Bill of Rights, 1689, 1 Will. & Mary, Sess. 2, c. 2. See also *May's Parliamentary Practice,* 20th ed., London, Butterworths, 1983, pp. 89-91, 212.

5. *British Railways Board* v. *Pickin,* [1974] A.C. 765, at pp. 787, 790. Specific approval of Lord Campbell's dictum in *Edinburgh Railway* may be found at p. 790.

6. *Bradlaugh* v. *Gossett* , (1884) 12 Q.B. 271, at pp. 273-274 (Lord Coleridge, C.J.)

7. *Ibid.*, p. 278 (Stephen J.).

8. *Waite* v. *The Queen* , unpublished text of the decision of the Manitoba Court of Appeal dated May 27, 1987 at p. 3.

9. *Ibid* ., p. 10.

10. *Ibid* ., pp. 7, 8, 9.

11. *Ibid* ., pp. 9, 10, 13.

12. Louis Côté, "The Federal Statute Revision of 1906 and Section 133 of the Constitution Act, 1867", (1987) 47 *Revue du Barreau* 127.

13. *The Queen* v. *Popovic,* [1976] 2 S.C.R. 308, at p. 313.

14. *Supra* note 12, p. 136; section 10 of the 1907 Act.

15. *Supra* note 1, p. 776.

16. *Bribery Commissioner* v. *Ranasinghe* , [1965] A.C. 172 (P.C.), approved by the Supreme Court of Canada in *Re Manitoba Language Rights, supra* note 1, at pp. 742, 747.

17. E.A. Driedger, "Money Bills and the Senate", (1968) 3 *Ottawa Law Review* 25, at pp. 45-46.

18. *The King* v. *Irwin,* [1926] Ex. C.R. 127, at p. 129.

19. *Powell* v. *Apollo Candle Co. Ltd.,* (1885) 10 A.C. 282, at pp. 290-291.

20. *Re Agricultural Products Marketing,* [1978] 2 S.C.R. 1198, at p. 1229.

21. *Ibid., p. 1227.*

22. *Ibid* ., p. 1291.

23. *Supra* note 1, p. 741. For an interesting article criticizing the rigidity of the Court's views on this point, see S.B. Horton, "The Manitoba Language Rights Reference and the Doctrine of Mandatory and Directory Provisions", (1987), 10 *Dal. L.J.* 195.

24. *Ibid.,* pp. 742, 746, 747.

25. *Ibid.,* p. 746.

26. *Bribery Commissioner* v. *Ranasinghe,* [1965] A.C. 172 (P.C.) at pp. 194-195.

27. *Ibid.,* pp. 197, 199.

28. See *Gallant* v. *The King,* [1949] 2 D.L.R. 425 (P.E.I. S.C.), for a case of statutory invalidity based on the legislature's failure to comply with section 55.

29. For a more comprehensive, although now dated, look at this subject, see Katherine Swinton, "Challenging the Validity of an Act of Parliament: The Effect of Enrolment and Parliamentary Privilege", (1976) 14 *Osgoode Hall L.J.* 345.

30. *Pickin* v. *British Railways Board, supra* note 5 at pp. 788 and 799.

31. See the recent definitive statement of the Supreme Court in *Reference re Section 94(2) of the Motor Vehicle Act,* (1986) 24 D.L.R. (4th) 536, at pp. 550-555. The question of parliamentary privilege was not mentioned. The debates and committee proceedings were again referred to in the as yet unreported Supreme Court case of *Reference re Roman Catholic Separate High Schools,* dated June 25, 1987.

32. See *May's Parliamentary Practice, supra* note 4, p. 83, and Maingot, *Parliamentary Privilege in Canada,* Butterworths, Toronto, 1982, pp. 116-122.