

country I move, seconded by the hon. member for Halton (Mr. Jelinek) and the hon. member for Elgin (Mr. Wise):

That the minister apologize to Canadians for his apparent bias, and if he cannot encourage Canadians to buy cars made in Canada and not just in his own constituency, that his resignation be submitted forthwith.

Madam Speaker: For presentation, this motion requires the unanimous consent of the House. Is there unanimous consent?

Some hon. Members: Agreed.

Some hon. Members: No.

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[Translation]

RESTRICTIVE TRADE PRACTICES

RESUMPTION OF COURT ACTION RESPECTING WHOLESALE DISTRIBUTION OF GASOLINE BY PETRO-CANADA

Mr. Bob Rae (Broadview-Greenwood): Madam Speaker, I rise under the provisions of Standing Order 43 to ask for the unanimous consent of the House to introduce a motion concerning a matter of urgent and pressing necessity.

In view of the fact that the government has decided to drop its charges against Imperial Oil, Irving Oil and Petrofina Canada allegedly engaged in restrictive trade practices in their dealings with the Perrette company by refusing to supply gasoline to its stations and considering the harassing and threatening tactics of large oil companies against independent oil dealers in Quebec, I move, seconded by the member for Selkirk-Interlake (Mr. Sargeant):

That the House ask the government to reconsider its decision to drop its proceedings and to entrust the bulk distribution of oil with Petro-Canada.

Madam Speaker: The House has heard the motion of the hon. member. For presentation, such a motion requires the unanimous consent of the House. Is there unanimous consent?

Some hon. Members: Agreed.

Some hon. Members: No.

* * *

● (1415)

[English]

ENERGY

CALL FOR RESIGNATION OF MINISTER—MOTION UNDER S.O. 43

Mr. Bill Domm (Peterborough): Madam Speaker, I rise under the provisions of Standing Order 43 on a matter of urgent and pressing necessity, which was confirmed last night in a special report on the CBC national news. It is exceedingly clear from this and from other widely available data that the present government's non-policy on energy matters is directly responsible for the oil and gas industry abandoning this coun-

Oral Questions

try in droves, with the result that everyone suffers—industry and the population in general—because of the lack of jobs. Since this government has failed to produce a comprehensive energy policy and has rather derived its position from a bird's-eye view gained from the "Liberal dirigible" drifting around in a constitutional cloud, I move, seconded by the hon. member for Cambridge (Mr. Speyer):

That this House demand the immediate resignation of the Minister of Energy, Mines and Resources.

Madam Speaker: For presentation, this motion requires the unanimous consent of the House. Is there unanimous consent?

Some hon. Members: Agreed.

Some hon. Members: No.

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HOUSE OF COMMONS

PRESENCE IN GALLERY OF PREMIER OF PRINCE EDWARD ISLAND

Madam Speaker: I would now like to draw the attention of the House to the presence in our gallery, in the event he slips away, of the former member for Malpeque, the present Premier of Prince Edward Island, the Hon. Angus MacLean.

Some hon. Members: Hear, hear!

ORAL QUESTION PERIOD

[English]

THE CONSTITUTION

REFUSAL OF PRIME MINISTER TO REFER RESOLUTION TO SUPREME COURT

Right Hon. Joe Clark (Leader of the Opposition): Angus, you know you are welcome here!

Some hon. Members: Hear, hear!

Mr. Clark: Madam Speaker, my question is for the Prime Minister. The Prime Minister will recall that yesterday when I asked him about a reference to the Supreme Court for its opinion on the constitutionality of his constitution resolution, he said as reported at page 3630 of *Hansard*:

—it is not the intention of the government to ask the courts to decide upon a matter which Parliament itself has before it.

The Prime Minister will also remember that two years ago he agreed to refer Bill C-60 to the Supreme Court, even though that bill was before Parliament at the time. He did so because he agreed, to quote him directly from his letter of September 13, 1978 to Premier Blakeney, as follows:

—it seems undesirable to allow allegations of uncertainty in this regard to continue to impede concentration on the substance of the question.

Oral Questions

My question to the Prime Minister is this: why is there a double standard? Why would he agree to make a reference on a question in 1978 before the House of Commons and refuse to make a reference on the constitutional resolution now before Parliament?

Some hon. Members: Hear, hear!

Right Hon. P. E. Trudeau (Prime Minister): Madam Speaker, I attempted to explain that yesterday and I will attempt again to indicate to the Prime Minister—

Some hon. Members: Hear, hear!

Some hon. Members: Oh, oh!

An hon. Member: Resign!

Madam Speaker: Order, please.

Mr. Trudeau: I apologize to the Leader of the Opposition.

I indicated that the former case had to do with the present Constitution of Canada, knowing whether section 91, first paragraph, permitted us to amend provisions regarding the Senate through Parliament acting alone or not. This was a matter which properly should be referred to the courts because it had to do with the section in the constitution now.

● (1420)

What we are engaged in at this time, Madam Speaker, is a debate as to whether the Parliament of Canada has the right to go to Great Britain without the unanimous support of the provinces. This is not provided for in any written or unwritten section of the British North America Act, as I explained yesterday; therefore, that is not a matter which, in my view, can be adjudicated upon by the courts. As the hon. leader himself was careful to point out, this is a political battle. It is a different view of different kinds of Canada. I think it is wrong to get the courts to make decisions, not on conflicts of law which are derived from the constitution, but on conflicting views of Canada. That is the present debate.

REQUEST THAT LEGAL OPINION BE MADE PUBLIC

Right Hon. Joe Clark (Leader of the Opposition): Madam Speaker, just in case anyone missed that, the Prime Minister was saying that the constitution is not a constitutional question.

Some hon. Members: Oh, oh!

Mr. Clark: He has tried to perpetuate a double standard regarding references to the Supreme Court, but we know his position. He refuses to make that reference.

Let me turn my attention for a moment to the Minister of Justice. We are all aware that the practice has always been in this House that legal opinions made available to the government are not made public to the House of Commons or to the public. However, in view of the special and serious nature of

this issue, will the Minister of Justice agree to waive the normal confidentiality which attaches to government legal opinions and allow Parliament and the people of Canada to see the advice on which he says the Government of Canada is acting?

[Translation]

Hon. Jean Chrétien (Minister of Justice and Minister of State for Social Development): Madam Speaker, I intend to appear before the committee, and hon. members, if we do one day go into committee, will have the opportunity to question me on the matter. The answer the Prime Minister gave a moment ago is self explanatory. The constitution does not provide for its own patriation. Everyone knows that it is the British parliament which must legislate in the matter. And as I have often said, we will go only once and then we can solve all our problems in Canada.

[English]

Mr. Clark: Madam Speaker, there are some of us here who believe that the Constitution of Canada should be the business of the Parliament of Canada and not the business of the parliament at Westminster.

Some hon. Members: Hear, hear!

Mr. Clark: I take it that the Minister of Justice has now declined to make available to the House of Commons and the people of Canada those legal opinions of which he is so sure but which he will not allow the Supreme Court of Canada to test. I ask either the Prime Minister or the Minister of Justice whether it is the position of the government now that Parliament and the people of Canada should bow to the government's will on the basis of advice that the Minister of Justice insists on keeping secret, and the validity of which he refuses to submit to the basic test of the Supreme Court?

Mr. Chrétien: Madam Speaker, I just said a minute ago that we are very anxious to go in front of the committee and the members of this House and of the other house will be able to question me on the matter and I will reply to their questions. These are the practices that have been followed in the past and I intend to follow them in the future—

Some hon. Members: Oh, oh!

Madam Speaker: Order, please. The minister should be allowed to complete his answer.

Mr. Chrétien:—especially when the Leader of the Opposition cannot make up his mind about patriating or not patriating the constitution.

Some hon. Members: Hear, hear!

Some hon. Members: Oh, oh!

REQUEST FOR WITHDRAWAL OF SECTION 42 OF
CONSTITUTIONAL PROPOSALS

Hon. Ray Hnatyshyn (Saskatoon West): Madam Speaker, we at least believe that Canadians should determine their own future, not the parliament of another country.

Some hon. Members: Hear, hear!

Mr. Hnatyshyn: I wish to direct my question to the Prime Minister. Given the indications in this House over the course of the last week, and yesterday by virtually all of Canada's premiers, and there is growing public opinion, that section 42 of the government's constitutional proposals must not be proceeded with because—and I quote Premier Blakeney on this—“it gives the federal government such a potent weapon that it would threaten the provincial partnership upon which Canada rests”, will the Prime Minister now withdraw that especially offensive section in the government's proposals now before Parliament?

● (1425)

Right Hon. P. E. Trudeau (Prime Minister): Madam Speaker, you will recognize that we are being questioned about the bill itself. I am very happy to participate in this debate but, as the Minister of Justice just said—

Some hon. Members: Oh, oh!

An hon. Member: Answer the question.

Mr. Trudeau: —we thought we would be debating this question in committee. With regard to the particular section which the hon. member finds so offensive, if you will allow me, Madam Speaker, I will try to explain to the hon. member why it is there.

Mr. Lawrence: Why don't you make a speech on it?

Mr. Trudeau: Now I have a member who does not want me to make a speech.

Mr. Lawrence: No, why don't you make a speech?

Mr. Baker (Nepean-Carleton): Get into the debate.

Some hon. Members: Hear, hear!

Mr. Trudeau: I thank the House for unanimous consent for me to make a speech at this point.

Some hon. Members: Hear, hear!

Mr. Trudeau: Section 42, which some of the premiers and the Leader of the Opposition find so offensive, is, as I have explained before, a deadlock-breaking mechanism.

An hon. Member: The only person who believes that is Ed Broadbent.

Mr. Trudeau: It is something to which we would have recourse in cases when there is a deadlock between the federal and the provincial governments. If, as hon. members opposite

Oral Questions

have said repeatedly, there are two levels or two orders of government, experience has shown us in the past that these two orders of government cannot always agree with unanimity on any particular course, and this lack of unanimity, which pre-dates every one of us sitting in this Parliament since it goes back to 1927, has prevented Canada from having its own constitution in spite of 53 years of effort. The reason for that has been a deadlock between the two orders of government. It is because we respect those two orders of government that we say—

Some hon. Members: Oh, oh!

An hon. Member: Tell us another one.

Mr. Trudeau: It is because of that that we say a deadlock cannot be broken unilaterally by the federal government once the constitution is in Canada and, therefore, there must be some mechanism to break a deadlock lest it last another 53 years.

Some hon. Members: Hear, hear!

Mr. Trudeau: I cannot see how anyone sitting in this chamber would find it offensive for the constitution to provide that in the case of a deadlock—

An hon. Member: It does not provide that.

Mr. Trudeau: —we will appeal to the Canadian people.

An hon. Member: That is not true.

Some hon. Members: Oh, oh!

Mr. Trudeau: This seems to me the only recourse we can take in order to break a deadlock.

Mr. Baker (Nepean-Carleton): That is not true and you know it.

Mr. Hnatyshyn: Madam Speaker, certainly I am not any more clear in respect of what the Prime Minister has in mind. What is involved is not a question of lack of unanimity but a question of trying to obtain a consensus so we do not have chaos following in this country. I would again quote Premier Blakeney who said last night on television:

—I think the mood of the country is building into a confrontational mood.

He went on to state:

—we have a situation which is beginning to be more than disquieting. In fact, it begins to be dangerous.

In light of that sentiment being expressed—

An hon. Member: Read the rest of it.

Mr. Hnatyshyn: I will read the rest. If you will just give me an opportunity I will give the same speech as the Prime Minister gave.

An hon. Member: That isn't possible.

Oral Questions

Mr. Hnatyshyn: In light of that kind of sentiment being expressed, is the Prime Minister intending to communicate with the provinces again to see whether consensus can be obtained in this area, and to review with them the proposal before Parliament, or is he determined to move unilaterally to lead to a situation which Premier Blakeney says is dangerous to the continuance of Canada as it is today?

Mr. Trudeau: Madam Speaker, the hon. member is suggesting, and I agree with him, that consensus would be better; but he knows consensus has not been achieved over 53 years of efforts by six different prime ministers and dozens and dozens of premiers who have tried to find a way of bringing the constitution back. That consensus has not been found.

● (1430)

I am asked by the hon. member why I do not continue working at it. My reply is very simple. The premiers themselves have not reached any consensus on the best amending formula, and that is why we have provided in the resolution before the House that we would offer the people a choice—

Mr. Clark: That is not what the resolution says, and you know it.

Mr. Trudeau:—either of the Victoria formula, which is the most recent formula in Canada which had the agreement of all 11 provinces—

Mr. Beatty: Eleven provinces?

Mr. Trudeau: Eleven governments. It is the most recent one. It dates back to 1971, and that is why we have put the Victoria formula in as one option. The other option will be an option which the provinces among themselves can agree to present to the Canadian people, and surely if they have one they should be prepared to test it with the Canadian people.

That is why the proposed resolution suggests a referendum to be held between two and four years from now so that the people themselves can decide, not the courts. If Parliament and the legislatures and governments of the provinces cannot agree, then we should not go to the courts to tell us how to do it. We should go to the people so that they can tell us which of the two formulas to use.

Some hon. Members: Hear, hear!

Madam Speaker: Order. Although this applause might be justified in the views of many—and it has been happening on both sides—it cuts the time of the question period, and there will be fewer members who will be in a position to ask questions.

WAR MEASURES ACT

REQUEST FOR STATEMENT ON 1970 INVOCATION

Mr. Edward Broadbent (Oshawa): Madam Speaker, my question concerns an event which was set in motion exactly ten years ago tonight. I refer to the imposition of the War Measures Act to combat what was described by the Prime Minister that day as “an apprehended insurrection” in the province of Quebec. The then justice minister said, and I quote:

It is my hope that some day the full details of the intelligence upon which the government acted can be made public, because until that day comes the people of Canada will not be able to fully appraise the course of action which has been taken by the government.

After a full ten years will the Prime Minister assure us, let us say, within two weeks, that Parliament will be presented with a detailed written explanation of this extraordinary event?

Right Hon. P. E. Trudeau (Prime Minister): Madam Speaker, the Leader of the New Democratic Party refers to something described by me as an apprehended insurrection. I remind him that that was stated only after the government of the province of Quebec and the administration of the city of Montreal had written to the federal government describing the situation as that of apprehended insurrection.

An hon. Member: It was your decision.

Mr. Trudeau: At their request—I might say at their pressing and repeated request after a period of several days; Mr. Bourassa has stated this publicly, and I believe Mayor Drapeau has too—we then took the step—

An hon. Member: You did.

Mr. Trudeau:—of proclaiming the War Measures Act and having certain specific regulations apply only in the province of Quebec. That situation of apprehended insurrection was based on data which are frequently forgotten but which are generally known, and we have nothing to add to the facts which are known publicly.

I believe the Deschenes inquiry in the province of Quebec spent a few years trying to establish facts different from those we said were public and well known. If the government of the province of Quebec had found anything untoward in that action or anything suspicious or hidden, the Leader of the New Democratic Party could be very sure that it would have been made public before or during the referendum. The fact that it was not made public shows that even the most hostilely-inclined provincial government was unable to find any facts or establish any realities contrary to those which are well known and upon which we acted.

Mr. Broadbent: Madam Speaker, the facts indeed are well known, including studies which were carried out by the present government of the province of Quebec and the one to which the Prime Minister has just referred. According to RCMP officers directly involved, the War Measures Act itself was