

• (1500)

THE CONSTITUTION

REPORTED INTENTION OF UNITED KINGDOM GOVERNMENT TO DELAY ACTION ON CONSTITUTIONAL PACKAGE

Hon. Allan Lawrence (Durham-Northumberland): Madam Speaker, if I may, I would like to fine-tune the rather indistinct and vague answers given this afternoon by the Minister of Justice by asking the Prime Minister, if I could get his attention for a moment, if he or any member or official of the government, now that the Supreme Court of Canada is seized of the matter, has had any indication at all from the U.K. government that they do not desire in any manner, shape or form to deal with the constitutional package or resolution until the Supreme Court of Canada determines the validity or invalidity of it?

Right Hon. P. E. Trudeau (Prime Minister): No, Madam Speaker, I have not had any such notice from anybody in the United Kingdom, nor to my knowledge has anyone on their behalf said that to anyone on this side of the House.

Mr. Lawrence: I wonder if the Prime Minister, as succinctly and briefly as possible, because I am afraid it passed over me, could explain once again why he is acting in a discriminatory fashion in respect of this Parliament by putting it in a subordinate position in that he is not insisting that the British parliament pass this measure until the Supreme Court of Canada has ruled on it, but he is insisting that this Parliament pass on it.

Mr. Trudeau: Madam Speaker, on the contrary, I am proposing a course of action which would bring certainty to the courts. They would know what this House has decided in a final way. That is what I am proposing. Once the courts know that, they will decide whether it is legal or not.

In the case of the United Kingdom, Madam Speaker, they have no choice, in our view. They will pass whatever they receive.

An hon. Member: Holding their noses.

Mr. Trudeau: And that is what the British Prime Minister has told us and said publicly. She will proceed expeditiously with the introduction of the measure proposed by Joint Resolution of both Houses of Parliament.

PROCEDURE FOR REFERRAL OF CONSTITUTIONAL RESOLUTION TO SUPREME COURT OF CANADA

Hon. Ray Hnatyshyn (Saskatoon West): Madam Speaker, in view of the response by the Prime Minister as to the kind of matter which the Supreme Court of Canada would be seized of, I would like to ask the Minister of Justice, in view of the fact that the Supreme Court of Canada is now seized of the appeal on the Manitoba reference, which is on the proposed resolution prior to amendments by the committee and any that may arise on the floor of this House, and in view of the Prime Minister's so-called magnanimous offer, just how does he

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propose to have the amended resolution brought to the attention of the Supreme Court of Canada for adjudication?

Hon. Jean Chrétien (Minister of Justice and Minister of State for Social Development): First things first, Madam Speaker. Let us vote here, it will be final, and after that we will find a way to transmit that to the Supreme Court of Canada.

REQUEST FOR ADJOURNMENT OF DEBATE

Hon. Ray Hnatyshyn (Saskatoon West): Madam Speaker, with an answer like that I would not ask the Minister of Justice to represent me in a small claims court.

My supplementary is to the President of the Privy Council. Maybe I can get some sense out of this garbage we have been getting from the government over the last little while. The Prime Minister has insisted on the immediate passage of the Joint Resolution on the Constitution and the lodging of the address at the first reading stage—this was confirmed by the Minister of the Environment this morning on "Canada A.M."—in the House of Commons of the United Kingdom, awaiting the adjudication of the Supreme Court of Canada on the Manitoba reference.

Since a judgment of the Supreme Court striking down the constitutional package would require a withdrawal of that address by Parliament and require the introduction of a new constitutional package on the floor of this House, and a new committee proceeding, why does the government House leader not now move the adjournment of the debate to avoid delay, because this will involve a rerun of a six-month debate when the court strikes down the constitutionality of this particular package?

[Translation]

Hon. Yvon Pinard (President of the Privy Council): Madam Speaker, I must say to the hon. member that I can hardly give an answer which differs from that of the Minister of Justice. I am surprised that the Saskatchewan lawyer would even attempt to teach law to the Minister of Justice by pointing out that he would not accept to be represented by the Minister of Justice in a small claims court. As a lawyer he ought to know that no one is allowed to be represented by counsel before a small claims court.

[English]

Madam Speaker: Order, please. The House has now reached the point where it may hear questions of privilege. I just want to inform the House that I have several of them, nine on the Constitution, and I have tried to group them. I want to let the hon. members know how I propose to deal with these. The nine on the Constitution deal with the fact that the resolution on the Constitution places hon. members of this House in an unacceptable and improper position. They are worded nearly the same way, and most of them say that it violates the oaths that different members have taken before the bars of the different provinces. Although they did not all come in this

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order, I propose to hear first all of the questions of privilege having to do with the Constitution.

I would enjoin the hon. members who want to speak on these particular questions of privilege, since there are quite a number of them, to restrain themselves so that I will not have to, and I ask them to pick their arguments very carefully because I have questions of privilege on other subjects that I have to deal with today.

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POINT OF ORDER**MR. CLARK—THE CONSTITUTION—SUGGESTED PROCEDURE FOR AMENDING PROPOSED RESOLUTION**

Right Hon. Joe Clark (Leader of the Opposition): Madam Speaker, I rise on a point of order having to do with government business which may well facilitate proceedings in the House. It arises from an exchange between the Prime Minister (Mr. Trudeau) and myself today in which he posed some questions to me and, as Your Honour knows, it would be improper for me to respond during question period to questions posed to me by the Prime Minister. I would like to raise a matter which may well be of interest to the Prime Minister and the government House leader, because it would elaborate upon a way in which we can resolve the impasse now before the House. It would allow us to get on with other business and resolve this question of the legality of what Parliament is being asked to consider before it is asked to consider it.

Madam Speaker: Order, please. It really has to be a point of order and deal exactly with what the Leader of the Opposition (Mr. Clark) has said, and, of course, it should be as short as possible.

Mr. Clark: Madam Speaker, I am prepared to wager that my point of order will be briefer than most of the Prime Minister's responses.

What we have done today is propose that the government adjourn debate on the resolution now before this House and thereby allow Parliament to get on to other urgent business of the nation. It would also allow the government to send to the Supreme Court of Canada, either by following the appeal procedure or by reference, a question which would determine the legality of the proposal we are being asked to judge. I would appreciate some attention being paid to this serious proposal by the government side.

The Prime Minister responded to my suggestion by posing a question to me. He asked me what questions would go to the Supreme Court. He asked whether or not it would simply be the resolution proposed by the Government of Canada or whether it would have appended to it the amendment proposed by the hon. member for Provencher (Mr. Epp), the amendment on women's rights proposed by my party in the other place, the amendments which are apparently of interest to the New Democratic Party and certain other amendments. That question did not occur to the Prime Minister when he made a

reference in relation to Bill C-60, but apparently it occurs to him now. I am prepared to take it as a matter of some seriousness to him.

• (1510)

There is a way to resolve this problem, and that would be to have an agreement among the three parties in the House as to the amendments we would want to have seriously considered in the House, if it were judged by the Supreme Court of Canada that it was legal for the House of Commons to consider this question at all. For the consideration of the government and the House leader on the other side, we would propose consultations now to determine with which amendments the various parties would want to proceed.

Once it was agreed which amendments were of priority to us—certainly there is the one standing in the name of the hon. member for Provencher and there are a number of others that are priority amendments—there could then be an agreement that the reference to the Supreme Court of Canada could include those amendments as well, so that we would know the legality—

Some hon. Members: Hear, hear.

Madam Speaker: Order, please. I am having a bit of trouble—

An hon. Member: He is the Leader of the Opposition, Madam Speaker.

Madam Speaker: Oh, yes, I am very conscious of that, but I am having a little trouble allowing this point of order. It seems to me that these kinds of negotiations are not covered by the rules of the House and that the Right Hon. Leader of the Opposition is continuing debate on this whole question.

If the Right Hon. Leader of the Opposition has any proposal concerning the technical means at our disposal to get out of what other members—not myself—have called the "impasse", I could entertain this as a point of order after question period. But it seems to me that this kind of proposal ought to come out of the debate.

Some hon. Members: No, no.

Madam Speaker: I am afraid it is very difficult for me to see a point of order in what the hon. member is now discussing.

Mr. Clark: Madam Speaker, of course I will be bound by your ruling. I am trying to deal with House business. There was a suggestion put to me by the Prime Minister, which I took to be serious, as to how we could resolve the matter. I am not permitted under the rules to answer his questions, at least until after the next election.

Some hon. Members: Hear, hear!

Some hon. Members: Oh, oh!