

Oral Questions

Mr. McGrath:—from this question, why does the Right Hon. Prime Minister not do the honourable thing and withdraw the resolution from the House and refer it to the Supreme Court of Canada?

Some hon. Members: Hear, hear!

Right Hon. P. E. Trudeau (Prime Minister): For the very simple reason, Madam Speaker, that I am trying to get before the Supreme Court of Canada a resolution which would be improved in the way that the House leader of the New Democratic Party has suggested; that I believe the lady from Kingston—

Mr. Clark: The hon. member from Kingston.

Mr. Trudeau:—has suggested, and that we have suggested, namely, that we put these things in the resolution. Then we will have before the Supreme Court of Canada the kind of charter which everybody says is a very good one. All that will have to be determined then is the legality of it. As the Minister of Justice has said many times, this is the way the House always proceeds.

Mr. Clark: Except on Bill C-60.

Mr. Trudeau: It adopts bills. The hon. member constantly refers to Bill C-60. There was a disagreement on Bill C-60.

Some hon. Members: Oh, oh!

Mr. Trudeau: Members of the opposition did not agree with the substance of Bill C-60. But they have told us repeatedly—

Miss MacDonald: The committee report on C-60 was unanimous.

Mr. Trudeau:—and I wonder whether they were giving us the truth or not—that the people of Canada wanted a charter, that the people of Canada wanted their Constitution.

Mr. Clark: What about the amending formula?

Mr. Trudeau: That was not the position on Bill C-60. They never took that position that I can remember. That is why we are saying—

An hon. Member: What about the referendum?

Mr. Trudeau: The hon. member is talking about the referendum. I am beginning to wonder if they think the courts should impose an amending formula on us or not.

Mr. Baker (Nepean-Carleton): They could not do it anyway.

Mr. Trudeau: If that is not their position, Madam Speaker, surely all they are asking the courts to do is to do what the court of Manitoba and the court of Newfoundland have done, and that is decide whether this particular resolution is *intra vires* or *ultra vires*. That is what has to be decided.

Some hon. Members: Oh, oh!

Mr. Trudeau: I can understand that some hon. members do not like this kind of a suggestion. They have been arguing for days and weeks that the Supreme Court should decide. I am putting a proposal before them that will permit the Supreme Court to decide. If the Supreme Court decides against us, then obviously the resolution will not be sent to Great Britain. Isn't that what the Leader of the Opposition has been looking for?

Some hon. Members: Hear, hear!

Mr. McGrath: Madam Speaker, the Prime Minister seems to be changing his position with each answer.

Some hon. Members: Hear, hear!

Mr. McGrath: Consequently, we will have to examine very carefully what in fact he has said.

I want to remind the Prime Minister, in putting this supplementary question to him, that when the government took its responsibility and referred Bill C-60 to the Supreme Court of Canada, the Supreme Court stated that the process was *ultra vires*, that the federal government could not unilaterally change the Senate.

Now the Supreme Court of Newfoundland is saying the same thing, that the process involved in the resolution before the House is illegal and *ultra vires* because it changes the federation—

Some hon. Members: Hear, hear!

Mr. McGrath: By refusing to refer it to the courts, the Prime Minister is asking me and the members of this House to be—

Some hon. Members: Oh, oh!

Some hon. Members: Hear, hear!

Madam Speaker: Order, please. The hon. member has the floor only to ask a question.

Mr. McGrath: Madam Speaker, I want to ask the Prime Minister whether he will reconsider what he has said because he is asking the House, in the face of the unanimous decision by the Supreme Court of Newfoundland, to pass something which is, in fact, illegal. That is the point.

Some hon. Members: Hear, hear!

Mr. McGrath: Therefore, I ask the Prime Minister if he will do on this—

An hon. Member: Who are you?

An hon. Member: The Supreme Court of Newfoundland said it.

An hon. Member: Oh, oh!

Mr. McGrath:—I am not saying it, it is the Supreme Court—