

*Oral Questions*

we do not know, in light of the Newfoundland decision, whether the matter is legal or not.

● (1420)

We thought it was legal after the Manitoba decision, and we thought it had been legal before; but now there is a doubt. That is why we are putting to the opposition a proposition which would permit us to determine whether a specific bill, a specific resolution—a joint resolution, as it would be—is legal or not. I repeat, if it is judged not to be legal, then we will not press for its passage in the United Kingdom.

**Mr. Stevens:** Very big of you!

**Mr. Crosbie:** Fantastic concession!

**Mr. Trudeau:** Well, the counterpart of that fantastic concession, as the hon. member for St. John's West called it, would be that, if the matter is legal, then I would hope that the opposition would withdraw their opposition.

**Mr. Crosbie:** Not likely. Why should we? We oppose this process. It is unconstitutional. It is against the spirit of the Constitution.

**Mr. Trudeau:** I hear the hon. member for St. John's West saying that he opposes the process, and that it is unconstitutional. That is why I am suggesting that we have the courts determine whether his opinion or ours is right.

**Mr. Clark:** Madam Speaker, the Prime Minister and the country know that the Prime Minister made his suggestion yesterday because he had no alternative.

**Some hon. Members:** Hear, hear!

**Mr. Clark:** He is trying to pretend that a position he is forced to take is an offer, when, in fact, all he is doing is admitting that he has been put in a box by the Supreme Court of Newfoundland which has decided that his constitutional position is illegal. That is now the law of Newfoundland. That is now the position with which this Parliament is faced.

The Prime Minister said that there was some doubt. There is no doubt, as it stands in relation to the decision of the Supreme Court of Newfoundland. That court has decided that it is illegal. This government is asking this Parliament to proceed with a matter which has been declared to be illegal by a court.

Will the Prime Minister of Canada seriously consider adjourning debate on this matter until the Supreme Court of Canada can assure the Prime Minister of Canada and this Parliament that what the Prime Minister is proposing is, in fact, legal or otherwise? Let me say to the Prime Minister that it makes no sense at all for him to say that he would not ask the British parliament to act on a matter which is illegal, but he wants the Canadian Parliament to act on a question which is illegal.

**Some hon. Members:** Hear, hear!

**Mr. Clark:** My question is quite simple. Why will the Prime Minister not apply to the Canadian Parliament the same practice which he applies to the British parliament? Why will he not adjourn discussion of this resolution until the Supreme Court of Canada has decided whether it is legally proper for the Parliament of Canada to act alone on the resolution?

**Some hon. Members:** Hear, hear!

**Mr. Trudeau:** Madam Speaker, the Right Hon. Leader of the Opposition says that we have been put in a box by the Newfoundland decision. I repeat the same question. Why did he not find himself in a box by the Manitoba decision?

**Mr. Hnatyshyn:** It is a hypothetical judgment.

**Mr. Trudeau:** The Manitoba decision was to the effect that our action was legal, and we continue to act and the opposition continues to oppose. Therefore I argue that legality is really not what interests the Leader of the Opposition. It is obstruction that interests him. The Leader of the Opposition makes a suggestion that we adjourn the debate so that the Supreme Court could be seized—with what, Madam Speaker?

**An hon. Member:** Whatever you refer them to.

**Mr. Trudeau:** It would be seized with something which the court of Manitoba, through the voice of its Chief Justice, said was hypothetical. We must seize the court with something certain.

● (1425)

Let me read, if I may have the permission of the House, what Chief Justice Freedman of the Manitoba Court of Appeal said. We had long readings from the Newfoundland judgment yesterday. If the House would bear with me, I should like to read a very important point which permits me to answer the question of the Leader of the Opposition. I quote Chief Justice Freedman as follows:

We therefore face a real likelihood that the amendments sought in the proposed resolution may be altered, deleted, or supplanted by other amendments before the resolution is deemed ready for transmission to Her Majesty. In this situation there is a danger that if we answer Question 1 . . . we may later find that we have answered matters no longer before us and have not answered matters that emerged in their stead. The Court should not be exposed to the risk of such an adventure in futility.

The Supreme Court, in the past, has also frequently objected to receiving matters referred to it because of their hypothetical nature. Let me remind the House that we have now a resolution, with a proposed amendment from the hon. member for Provencher.

**An hon. Member:** Oh, come on, Madam Speaker, this—

**Mr. Trudeau:** The hon. member for Provencher has moved that we delete a very important part of this resolution, notably the part dealing with the referendum and amending procedure. If we go to the courts now, would we go with or without the amendment having been adopted? If we went in the present state and the court made this kind of statement, then we would