

*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!