

Oral Questions

agree on some form of time allocation which would not only get the resolution improved, with the amendment dealing with women's rights—which I believe has been pressed from various sides of the House—and an amendment which has been discussed on aboriginal rights—

Some hon. Members: Property!

An hon. Member: Too much of this is tongue in cheek!

Mr. Trudeau: If the hon. members opposite do not want to improve the resolution another way, my offer will still stand; that we get a resolution to the Supreme Court of Canada in return for which the government would certainly undertake not to press the United Kingdom to pass the resolution until it has seen the judgment of the Supreme Court of Canada, and if the—

Some hon. Members: Hear, hear!

Mr. Trudeau: An hon. member says that I have come a long way. Indeed, we were quite certain that the courts would render in our favour, as indeed—

An hon. Member: Can we believe it?

Mr. Trudeau:—one of the appeal courts has done. I am taking cognizance of this new situation, and I am making a very serious offer to the various hon. members of this House that, if the House leaders of three parties can agree on some way in which we can get this resolution out of the House—improved, if possible—get it before the Supreme Court of Canada before Easter, or any time before the Supreme Court of Canada is going to look at the factums, then we will undertake not to press its passage in the United Kingdom until after the Supreme Court of Canada has judged.

If the Supreme Court renders in favour of the resolution, I take it that would settle the matter and we could put an end to this debate which has been going on for several months. Of course, if it renders against us, the government would have to admit that it cannot proceed in the United Kingdom with the resolution in this form.

Some hon. Members: Hear, hear!

DIRECT REFERRAL TO SUPREME COURT

Right Hon. Joe Clark (Leader of the Opposition): Madam Speaker, that is a very interesting proposal put forward by the Prime Minister, which we would be prepared to consider. I assume that that would mean the withdrawal of the notice of motion that stands now in the name of the President of the Privy Council. I would like that confirmed.

However, my question to the Prime Minister is: since the Prime Minister is now concerned about the legality of the position which he is putting forward, would he consider applying precisely the same standard to this situation which he applied to the situation in respect of the Senate, in the former Bill C-60, when a proposal he made was considered to be

unconstitutional, and he then undertook a direct reference to the Supreme Court of Canada to determine the constitutionality of that position before this Parliament acted? We would like to know that what we are doing is legal before we do it.

Some hon. Members: Hear, hear!

● (1430)

Mr. Clark: If the Prime Minister was prepared to do that with respect to the Senate provisions of Bill C-60, will he apply his own standard in this case so that Parliament can be assured, before we act, that what we are doing in this House of Commons and in the other place is legal?

Right Hon. P. E. Trudeau (Prime Minister): Madam Speaker, the hon. Leader of the Opposition asks for the assurance that the notice of motion before the House would be withdrawn. Of course we can withdraw that motion, providing the House leaders can agree on some other form of time allocation or agreement to pass the resolution so that it gets to the Supreme Court in time. It does not have to be the motion standing in the name of the House leader of the government, but there would have to be some agreement between members of this House that debate progress and come to a conclusion.

The reason I repeat that, and the reason why I think I should point out to the Leader of the Opposition that it is not the situation with Bill C-60 where debate had not progressed, is that—we are now in the situation where debate has been going on for six months, where the resolution has already in its present form been referred to two courts of appeal, one rendering in favour and one against, and where we have the opinion of the Chief Justice of Manitoba and other judges to the effect that they cannot judge a hypothetical situation. If that is the case—this is not a referral, I would remind hon. members of the House, not a referral by the federal government—it is a case taken by six provinces.

Some hon. Members: Oh, oh!

Mr. Trudeau: I understand that hon. members do not want to let their leader study this proposition, but I know him to be interested in it. I ask that he do study it, that we look at the possibility of getting the bill out since we have invested more than six months in it, that we get the bill out, that it pass both Houses of Parliament in good time for the Supreme Court to consider it.

I repeat, if the Supreme Court should judge against it, we will, of course, not press the United Kingdom to pass it in all stages. The point which has been so laboriously fought for by the Leader of the Opposition will have been proven to be legally right and founded. But if the contrary happens and the Supreme Court, which we all want to see adjudicate on this, decides in favour of the bill, then we will not have to begin this debate ad nauseam again but will merely ask the United Kingdom to continue its passage.