

*Inquiries of the Ministry*

accepted by the majority of some producing segments, has the government made any clear statement to the provinces of its policy with regard to a common market in Canada? Would he also consider, in light of developments, placing the subject definitely on the agenda of the federal-provincial conference which is to take place next month in Victoria?

**Mr. Trudeau:** Mr. Speaker, concerning the agenda in Victoria, personally I would hesitate to suggest that it be put on the agenda. Of course, if the provinces so wish it will be done. But we learned from the previous federal-provincial conference that this matter of a common market is a very intricate and delicate one to discuss with the provinces. As a matter of fact, the leader of the New Democratic Party will remember that when we were discussing jurisdiction over taxation, and indirect taxation in particular, it was even then difficult to come to agreement with the provinces on how perhaps indirect taxation could be allowed to the provinces under the constitution without affecting adversely this Canadian common market. Therefore I would not have great hopes that even if it were on the agenda we could reach a solution in June which would be of a theoretical and constitutional nature. This is why, I repeat, the government has followed the approach of trying to set up, in co-operation with the provinces under the present constitution, national marketing boards of one kind or another.

INTERPROVINCIAL MARKETING—FEDERAL POSITION IN PROCEEDINGS BEFORE SUPREME COURT RESPECTING VALIDITY OF PROVINCIAL REGULATIONS

**Mr. David Lewis (York South):** May I ask the Prime Minister a final supplementary question. The Minister of Justice has informed us that the government is entering the case that will go before the Supreme Court of Canada on this subject. He has stated that the government intends to defend the constitution, which is a little cryptic and not entirely intelligible. Will the Prime Minister inform the House whether counsel for the federal government will take a position against the constitutionality of these varying provincial steps to interfere with inter-provincial trade?

**Right Hon. P. E. Trudeau (Prime Minister):** I do not believe I can answer, Mr. Speaker, without giving a very intricate legal opinion. I draw to the attention of the hon. member that he knows very well how the constitution reads on this matter. It talks about free movement, without fiscal impediment, between provinces. But the hon. member also knows that the practice of provinces imposing regulations within their own boundaries is one which is also accepted under the past practices of the constitution.

**Mr. Horner:** No, no.

**Mr. Trudeau:** That is the reason why the federal government, contrary to the advice of some hon. members, did not think the solution was in going to the courts. That is why we have pleaded with the House to get on with this remedy, Bill C-176—

[Mr. Lewis.]

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

**Mr. Trudeau:**—even if it is not to the satisfaction of the opposition, so that a chance might at least be given to try to implement these national marketing boards.

**Mr. G. W. Baldwin (Peace River):** I have a supplementary question. As the hon. member for York South stated, the Minister of Justice said, in response to a question from me, that he had instructed counsel to defend the constitution in so far as interprovincial trade and the British North America Act are concerned. As the Prime Minister and the Minister of Justice do not always see eye to eye on legal matters, I ask the Prime Minister if it is the policy of the government that the marketing acts and regulations passed by certain provinces, including Quebec and British Columbia, are repugnant to and offend against the spirit and letter of the British North America Act and should be struck down? If so, which regulations or regulations and acts of which provinces—

**Mr. Speaker:** Order, please. The hon. member's question is very interesting, but I suggest that he is asking for an opinion, legal or otherwise. The way I understand the hon. member's question, he is inviting the Prime Minister to state whether he feels that certain provincial legislation is contrary to the spirit of the constitution. At that point the Prime Minister would be expressing an opinion legal or otherwise. In those terms the question is not acceptable.

**Mr. Baldwin:** Mr. Speaker, I was careful to say the spirit of the act. With great respect, in that respect I think that the government, through the Prime Minister, should be entitled to indicate the position it takes with regard to this matter. This is not asking for an abstract opinion of law. Certain regulations have been passed.

**Mr. Speaker:** Order, please. I certainly do not want to cause difficulties. I am prepared to allow the Prime Minister to answer, but the hon. member will note that I was careful in expressing my view; I said "legal or otherwise". The hon. member says he did not ask for a legal opinion. He asked for a non-legal opinion, and that is also against the rules. Perhaps the Prime Minister might be allowed to reply to the hon. member's question provided it is done briefly, because there are a number of other supplementaries on the same subject.

**Mr. Trudeau:** In his supplementary, Mr. Speaker, the hon. member indicated that he was not talking in the abstract but about concrete regulations and laws which are now before the Supreme Court of Canada. I must confess that, unlike the hon. member, I would not be so bold as to tell the Supreme Court of Canada what they should be deciding.

**Mr. J. H. Horner (Crowfoot):** I should like to direct a supplementary question to the Prime Minister. Is the right hon. gentleman aware that if Bill C-176 were passed today or tomorrow trade barriers could still exist and, in fact, might well exist because of that measure?