

Mr. MARTIN (*Essex East*): May I address myself briefly to the motion? I thank the members of the committee for the patience which they have exercised in allowing me to make what I think is the argument with regard to an extremely important matter. Now I do not feel that the rules permit our deciding this matter. I think the rules are clear in Erskine beyond any shadow of doubt, that the responsibility is that of the chairman to determine whether or not this is sub judice.

I have great confidence, as I am sure all members of the committee have, in the chairman, and I hope that the arguments which I have put forward in all sincerity today will assist the chairman in the reinforcement of the position which he has already declared, and which I think in the circumstances is sound, fair and just.

The CHAIRMAN: I have made a list. First, Mr. McGregor? Do you wish to say anything to the main motion?

Mr. MCGREGOR: No.

The CHAIRMAN: Mr. Pigeon was next?

Mr. PIGEON: No.

The CHAIRMAN: Then Mr. Baldwin. Mr. Baldwin?

Mr. BALDWIN: I want to make a few comments to confirm the remarks I made this morning. I have looked up two authorities in view of Dr. Ollivier's comment from the legal aspect, and I would refer him and the committee to those two authorities to confirm and buttress my opinion of what has been said of the course which this committee proposed to take, if the motion of Mr. Pigeon is adopted, and not deal with matters which are sub judice.

There was a famous trial held in British Columbia when one of the ministers of the crown was charged and involved in certain proceedings. A statement was made by a man prominent in political life which was seized upon by counsel for the minister, and a summons for contempt was taken out against Mr. Dean Finlayson, I think it was. In looking at the list of counsel I observed that he was defended by the present Prime Minister and by Mr. Guest.

I think the question of whether or not a matter is in contempt of proceedings then pending, and whether it is sub judice are on all fours and parallel.

Here are the very simple words which form the opinion of Mr. Justice Wilson: he said—

A litigant or accused person is entitled to present his cause to a tribunal which has not been exposed to a barrage of ex parte statements as to the subject matter of the cause before it. But it is not correct to say that every reference to a pending cause is objectionable, and a reference which may appear prima facie to be objectionable may be justified by special circumstances.

Undoubtedly if Mr. Martin is able to suggest that such a situation existed here he might be correct. And in the concluding paragraph the learned trial judge said:

Democracy cannot be maintained without its foundation: free public opinion and free discussion throughout the nation of all matters affecting the state within the limits set by the Criminal Code and the common law.

And then there is another case in British Columbia which is more to the point, where there were a substantial number of newspaper comments made in 1957, in the case of a man charged with murder. The daily newspapers had both quoted almost verbatim statements made by this accused person. The reporter who reported the case had gone into great detail, and that was printed in the newspapers.