

Adjournment Debate

guidance and direction to the RCMP, and on the other hand he must not interfere in a purely political sense.

I am tempted to refer specifically to names and events in connection with this transcript but, after much reflection, temporarily I believe it would not be responsible to use my position as a member of parliament to contravene the spirit of the Criminal Law Amendment Act and, by so doing, possibly prejudice the rights of people who have been charged or who may yet be charged. I have thought about this at some length.

I have even considered an interesting case recorded in Ontario Reports of 1971 involving two eminent personages. The case is that of Roman Corp. Ltd. et al. v. Hudson's Bay Oil & Gas Co. Ltd. et al. His Lordship, giving judgment, said:

This is an application by the defendants, the Right Honourable Pierre E. Trudeau (hereinafter called Trudeau) and the honourable John J. Greene (hereinafter called Greene) (a) to strike out certain paragraphs and parts of paragraphs of the statement of claim (b) to strike out the whole of the statement of claim and (c) to dismiss the action against the said defendants.

The ruling was interesting.

No person can have a judgment awarded against him in civil proceedings arising out of statements made in the House of Commons and this privilege attaches also to extensions of the statements contained in a press release concerning them and a telegram to a person affected by them. Hence, allegations contained in a statement of claim that such statements and their extensions have been made by defendant prime minister and defendant cabinet minister will be struck out under rule 139.

I mention this to show that I have given considerable thought to whether I should give the type of information tonight that I could give. But I am not convinced it would be a responsible thing for me to do. Having said that, I want to say to the Solicitor General that, even taking into account the difficult role he plays in this House, his answers have not been as frank as they might be.

If I may speak again about the transcripts relating to the delicate Hamilton harbour matter, I suggest that the Solicitor General should, if he has not already done so, acquaint himself fully with the contents of these transcripts. I refer him particularly to volume I, pages 118 to 127, and more particularly to that part beginning on line 18 at page 127 and ending at line 12, page 129.

I suggest that the Solicitor General should consider his position as an important law enforcement officer who answers to this House, and act, or cause his colleagues to act with greater dispatch when the public interest requires specific decisions to be made in connection with inquiries.

On December 4, 1974, as recorded at page 1939 of *Hansard*, the Solicitor General, answering a question asked by the hon. member for Wellington-Grey-Dufferin-Waterloo (Mr. Beatty) concerning another matter which also involved tapes and investigation, said:

I have shown the transcript of the tape to certain members of the government, and I discussed it with the Prime Minister as it was my responsibility to do so. This is not a report that should be tabled in the House. I showed certain aspects of the report to the Minister of Labour to determine whether he was in fact involved in such conversations, and he admitted that he was.

When questions arise concerning judicial inquiries and situations involving people who have been charged, people

[Mr. MacKay.]

whose rights are specifically protected by the provisions of the criminal law amendment legislation, as incorporated in the Criminal Code, and people who may be collaterally involved because they hold a public position, the government should make every effort to satisfy the House and the country that nothing has been done which may give rise for concern.

For the present, I propose to leave the matter at that. I hope, in the days ahead, more information will be made available by those on the other side of the House and that a decision will be made as to whether the sort of public inquiry which many responsible people feel is necessary will be undertaken.

Hon. Warren Allmand (Solicitor General): Madam Speaker, the case referred to by the hon. member for Central Nova (Mr. MacKay) is one which resulted from an investigation into certain irregularities with respect to dredging contracts in Hamilton harbour. Since the Hamilton Harbours' Commission is subject to federal jurisdiction, the investigation has been carried on by the Royal Canadian Mounted Police.

After more than one year of serious investigation, charges were laid on May 29, 1974, against five individuals, one of whom was a member of the three-man Hamilton Harbours' Commission. The charges—30 counts on 12 informations—were: conspiracy to defraud, fraud, conspiracy to forge, uttering forged documents, and forgery. Three of those charged pleaded guilty and were fined a total of \$62,000 on February 5, 1975. Two others pleaded not guilty. Their cases went to preliminary inquiry on October 28, 1974, and they are now awaiting their trial which should take place soon.

In his questions of February 24 and 25 the hon. member for Central Nova asked me questions about the transcripts of evidence relating to the said preliminary inquiry. He asked me if I was acquainted with the transcripts and, if so, could I assure the House that no member of parliament or minister was implicated in the matters under investigation.

First of all I should point out to the House that under the law, under section 467 of the Criminal Code, the evidence at the preliminary inquiry is not to be published or broadcast, in other words, not to be made public. The purpose of this provision is to protect the names of persons who might be mentioned at the preliminary inquiry when they have not been found guilty or even charged with an offence. This is an important provision to protect civil rights. After all, it is one thing for a witness to make statements or allegations; it is another thing to make proof and to be found guilty.

Under the British system of criminal law, a person is innocent until proven guilty, and that proof must be beyond a reasonable doubt. But what is the member for Central Nova and certain members of the press trying to do? They are trying to circumvent Section 467. The law will not allow them to publish the transcripts. Therefore, they are trying to get out the information in the House of Commons so it can be made public through the back door, it appears for the sake of sensationalism and partisan politics, certainly not for the sake of justice.