

## PRIVILEGE

## SUB JUDICE CONVENTION

**Mr. Speaker:** I indicated earlier in Question Period that I would hear argument on the point that the hon. member for York Centre raised. I would ask him, in arguing, to stay away from whatever evidence may or may not have been presented in the court room and to stay on the main issue, of which I think I have a pretty good picture in any event, but I certainly will hear the hon. member.

**Hon. Bob Kaplan (York Centre):** Mr. Speaker, I rose during Question Period to ask a question based on evidence, as you have noted, which arose this morning and was adduced under oath from a staff sergeant of the RCMP in the course of a criminal trial. I confess, I was not surprised to see Your Honour on your feet with some concern about the applicability of the *sub judice* rule. I am rising now to address the relevance of the *sub judice* rule and the place of it in our rules of procedure in the House in the hope and expectation that, since the Solicitor General is still in the House, if a finding is made by Your Honour in favour of the submission which I have to make I might be given an opportunity to ask my question and, equally important as you will see, that the Solicitor General be given an opportunity to answer the question.

In connection with the *sub judice* rule, I want to make two alternative arguments. In the first place I think there is a tendency which we can all understand for the pressure to exist in the House to distort the *sub judice* rule itself, and obviously unintentionally. I think on the government side there is always a tendency to attempt to stretch the *sub judice* rule to protect or cover the government from having to give explanations or answers about matters on which it would have to answer. I confess on the side of the opposition there is certainly a tendency to want to shrink the *sub judice* rule so that the government will be exposed to more areas in which questions can be asked than it otherwise would.

I would ask Your Honour to reconsider the specific questions that I asked this afternoon from that point of view. I want to make the submission to you, Your Honour, that properly applied the *sub judice* rule does not really protect or cover the government from any

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responsibility to answer the kinds of questions that I was asking.

It is true that the evidence to which I was referring was adduced from a staff sergeant of the RCMP at a criminal trial. But, Your Honour, the evidence which was adduced in the submission that I made to you is not material to the issues before the criminal court and, at the same time, it is extremely material to issues which are the proper subject of debate and discussion in this House. It is material to the question of whether the Solicitor General was truthful to the House when he said that the RCMP had laid the charges completely on their own. It is material to the proper functioning of the Government of Canada in relation to the RCMP, to the long-established tradition of independence of the RCMP. It is material to the responsibilities of the Minister of Justice, to whom I would have also directed questions, as to the obligation of the Government of Canada to operate in conformity with the laws of our country.

The charge, however it was obtained—and that was what the evidence of the staff sergeant was about—is there before the court. The material evidence about the conduct of the accused, the conduct of other witnesses and their responsibilities will be adduced, will be supported and will be challenged, and a determination will be made.

My first submission to you, Your Honour, and this is the closing of this point, is that the question of from where the charges came from, which is so material to us, so much our responsibility in this House of Commons to deal with, has less to do, or little to do, or little material do with the actual criminal case. Second, Your Honour—

**Mr. Speaker:** In order to assist the Chair, I take it the point you are making is that the question you want to ask has nothing to do with the guilt or innocence of any person or persons presently before that criminal court. It has to do with something else which is related to the administration of government. Is that your point?

**Mr. Kaplan:** Mr. Speaker, that is correct. But I have an additional submission which I want to make because while I submit that and while I firmly believe it, as you have eloquently and directly put it yourself, I think there