

Privilege—Mr. MacKay

of Parliament in the 4th Henry VIII, commonly intitled 'an Act concerning Richard Strode', is a general law," extending to all members of both Houses of Parliament.

I hope I have whetted a few appetites for the reading of this material which, as I say, is not at all dry. But the point I am making is that it was established long ago that what is done outside cannot interfere with the freedom of speech of members in the House of Commons. Perhaps members will take my word for it when I point out that immunity does not apply if a member is charged with some crime, but in civil cases the freedom of speech of a member is not interfered with or limited.

Now I will quote a bit of what the hon. member for Peace River said. I come back to the absolute I started out with, namely, Beauchesne's statement that a matter which is sub judice cannot be referred to at all, which sounds as though there is no way to get around it. But I find that Dr. Beauchesne—he was good at this—when he produced his books did some digesting and frequently left out important parts. Mr. Speaker Lamoureux said of a Beauchesne quotation that it was too bad the full quotation was not there. So I refer hon. members to page 328 of May's eighteenth edition:

● (1550)

Matters sub judice.—By a resolution of the House matters awaiting or under adjudication in a criminal court or a court martial, and matters set down for trial or otherwise brought before a civil court may not be referred to in any debate or question.

The point about civil matters is that they have to be set down and brought forward for trial. So far as the present action is concerned, nothing has happened, and if the stricture that Your Honour had in mind the other day—I sense that maybe Your Honour's research has changed your mind a bit—was applied, then just the fact that this notice was given to the hon. member could keep him from exercising his freedom and his right to ask questions about Sky Shops month after month, maybe year after year.

The hon. member for Peace River also referred to the ruling given by Mr. Speaker Lamoureux on October 4, 1971. I am coming ahead several hundred years. I think the interesting thing—and I quote it, again for emphasis—is the statement that Mr. Speaker made about the citation in Beauchesne's; the one which says stay away from things that are sub judice. This is what Mr. Speaker Lamoureux said:

I think this citation should be interpreted as narrowly as possible.

In other words, freedom of speech takes priority. He went on:

I doubt very much if the Chair should be called upon to intervene whenever a member refers to a matter which is before the courts.

He goes on to point out that notice of the matter then being dealt with had been given but no proceedings had been underway. If Your Honour has done some of this same research, you might have fun pointing out that I more or less on the other side of the argument in that debate. When I asked some of my lawyer friends this morning what that would do to my status as my kind of lawyer, they said I would probably get a Q. C. if I could argue one way one year and the other way later on.

Mr. Lawrence: Yes, a federal Q.C.

[Mr. Knowles (Winnipeg North Centre).]

Mr. Knowles (Winnipeg North Centre): The reason I was arguing that way at that time was that because of the action taken in Saskatchewan, ministers were refusing to ask questions about the matter, but then the government brought in a bill, dealing with the same issue. So I suggested that the matter should be settled one way or the other.

So, sir, Mr. Speaker's ruling was clear, namely, that the kind of notice that had been in the Saskatchewan court at that time did not stand in the way of the bill proceeding. I go back to the Strode case and all the others, and I feel that on all counts Your Honour should come down on the side of freedom of speech rather than on the side of imposing a rule which Dr. Beauchesne quoted in his fourth edition but in which he did not quote all that was there in May from which he took it.

I am about to conclude, sir. I make the same argument that the hon. member for Peace River made. If the hon. member for Central Nova can be stopped from asking questions about Sky Shops because notice of a libel action, has been served on him, just think what could happen in this House. For example, I think the CPR is the meanest employer in Canada and I say that the CPR is particularly mean towards its pensioners. Is the CPR going to sue me for libel and shut me up? My friend, the hon. member for Nanaimo-Cowichan-The Islands (Mr. Douglas), thinks Imperial Oil is making huge profits by gouging its customers, and he says so. Is Imperial Oil going to sue him and silence his voice? The hon. member for Oshawa-Whitby (Mr. Broadbent) and the hon. member for Nickel Belt (Mr. Rodriguez) also have things to say about Weston, Loblaw's, Ziggy's; yes and INCO. Are they all going to be stopped by suits for libel, being filed against them? I am carrying it to the absurd, but sometimes one has to do that to make the point.

So, Mr. Speaker, I am grateful to Your Honour for giving us a few days in which to deal with this matter and for suggesting that we do some research, because it is really very interesting reading, and my conclusion from the reading I have done is to come down completely on the side of the hon. member for Central Nova.

Some hon. Members: Hear, hear!

[Translation]

Mr. Léonel Beaudoin (Richmond): Mr. Speaker, I will be very brief, and most of all I would be clear enough to convey the point of view of the Social Credit Party of Canada on this issue.

First I have to thank you for having provided us with a few days of reflection before voicing our views. I believe it essential to draw your attention on the very principle which is at stake in this discussion. I leave it to my knowledgeable colleagues to bolster their positions with technicalities like precedents or citations by such or such parliamentary jurists who are authorities with respect to the decision to be taken today.

I am very concerned with the orientation you will give to your decision today, if you do so. In my opinion, it is the very principle of the right to ask relevant questions on ticklish subjects which is at stake. The precedent which could be established by any decision directly affecting the case under study could serve—and I would dare say could dangerously serve—the interests of present or future gov-