

and defending legislation dealing with the unionization of an important category of public servants.

I do not want to reflect upon the Chair, Mr. Speaker, but I hope that the Chair will take the unprecedented initiative of calling it to the attention of a Minister when the *sub judice* rule is wrongly invoked. Regardless of how many excuses the Government seeks for not giving forthcoming and complete answers, at least it will not be able to find refuge in abuse of the *sub judice* rule.

I hope the Government will delay pressing ahead with this legislation until the full implications of yesterday's court decision are known. I hope also that it will allow the amendments which will bring employment in this place into line with employment elsewhere in the Public Service and the entire country.

**Mr. Boudria:** Mr. Speaker, I would like to congratulate the Hon. Member for York Centre (Mr. Kaplan) for his excellent speech in the House this afternoon. I am sure all Hon. Members on both sides now more clearly understand the application of the *sub judice* rule and how it has been too frequently invoked and abused by the Tories.

I believe it was the Member for Willowdale (Mr. Oostrom) who said earlier that we should not be discussing this issue because of the *sub judice* rule. He said something to the effect of this precluding members of the Government from speaking on this issue. This begs a very interesting question. Could my hon. colleague, who is learned in the law, inform us whether the *sub judice* rule applies differently to Government Members than to Opposition Members? I, frankly, would doubt that very much.

If the *sub judice* rule applies at all, which most of us question very seriously, why on earth are we discussing the Bill at this time? In order to avoid all doubt, why do we not withdraw the item from the Order Paper and wait until the court process is complete before putting it back on the Order Paper. I think that would be very wise in order to allay any fears of breaking the rule of *sub judice*. Would my learned colleague share with us his thoughts on the suggestion I have just made?

**Mr. Kaplan:** Mr. Speaker, I would like to thank my friend for the kind words he said about me, and also for the interesting question which he asked. I have difficulty thinking of any civil litigation to which the *sub judice* rule should apply. It may apply under combines legislation where the plaintiff is a private party who represents a Department of the Government, but that is not normal private civil litigation. However, the *sub judice* rule should certainly not be dragged into every civil case, and that is what we are talking about here. It is a simple civil case which involves no criminal jurisdiction at all.

With regard to whether *sub judice* applies to Government Members any differently than it does to Opposition Members, as I understand it, the rule applies to all equally and to whatever any Member might otherwise feel free to say in this

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place. In a sense it is a voluntary constraint because, to my knowledge, the Speaker has never risen to prevent a Member from violating the *sub judice* rule. If a Member chooses to do so, he takes the responsibility. The result might be that a case will be dismissed.

I recall a very recent situation in Quebec where a criminal case was proceeding and a witness was called for the Crown. Premier Lévesque of Quebec did not think much of that witness and attacked the credibility of the witness from the legislature. The case was dismissed. It will never be satisfactorily determined whether the accused was guilty or innocent. That case demonstrates the importance of the *sub judice* rule being respected, and also the absence of any recourse against a Member who chooses to violate the rule.

It is a different situation to plead the rule. With regard to this the responsibilities of Members are the same, but a Member who is asked a question or is called upon to comment on a matter and chooses not to do so because of the *sub judice* rule should think very carefully before invoking it. I invite the Chair, in future cases, to contribute to the deliberations of an individual about whether he should invoke this rule.

● (1430)

While I would not want to tell my friend that any one Member here has a greater responsibility to respect the rule than any other, I would hope that the Minister of Justice and Attorney General of Canada, above all, would make his use of the rule a model for all Members of Parliament. It should not be used unless it is precisely justified by the question he is asked and the circumstances he wants to address in giving his answer.

**Ms. Copps:** Mr. Speaker, I too would like to ask a question of the Hon. Member. Government Members seem to be invoking these rather bizarre and inapplicable rules in order to remain silent. This is particularly true of those Government Members who represent areas in the Ottawa-Hull region. Does he feel those members on the Government side are shirking their responsibility to their constituents? At the moment all we are discussing is simply an amendment which would bring about a 30-day delay while the implications of the court judgment can be reviewed and discussed with respect to what new decisions the Government is prepared to take to possibly change this legislation. We do not know whether this particular decision is going to be appealed. If it is, there will no doubt be a lengthy process before the resolution of the appeal. I wonder if the Hon. Member has any comment as to why Government Members have been strangely silent, have in fact abdicated their responsibility to their constituents on this issue?

**Mr. Kaplan:** I am as surprised about that as my colleague indicated she is in the way she phrased her question. After all, when one looks at the distribution of public servants in this country, a lot of them are represented here by Conservative Members. They are close to the Government and should be