he has said which I want to underline and emphasize a few moments from now. Let me say at the outset that I come down completely on the side of the hon. member for Central Nova (Mr. MacKay). I feel that his freedom of speech as a member of this House takes priority over any other rules or suggestions that may be found in various rules books.

Initially when one looks at this issue, he comes up against two apparent absolutes. Life is full of situations like that and you have to decide which one is more absolute than the other. One of the absolutes is in Beauchesne's fourth edition at page 127, where we read in citation 149(c):

Besides the prohibitions contained in Standing Order 35—

That is what it was when this book was produced.

—it has been sanctioned by usage both in England and in Canada, that a member, while speaking, must not:

(c) refer to any matter on which a judicial decision is pending—

As I say, that sounds absolute. I intend to join with the hon. member for Peace River in a few minutes in pointing out that if one goes back to the origins of that statement he will find that it is not as absolute as Dr. Beauchesne suggested when he digested the original citation for the purposes of his book. On the other side of the coin, again if we look in Beauchesne's fourth edition, at page 109 we will find the other absolute which is freedom of speech. Citation 117 (1) states:

● (1540)

The privilege of freedom of speech enjoyed by members of parliament is in truth the privilege of their constituents.

Then citation 117 (2) states:

Freedom of speech is declared by the Bill of Rights in the following terms: "That the freedom of speech and debates or proceedings in parliament ought not to be impeached or questioned in any court or place out of parliament". "This, as the Right Hon. Sir Donald B. Somervel, D.B.E., K.C., M.P., said before the committee in the Sandys case, in 1939, is not necessarily an exhaustive definition of the cognate privileges." But even assuming that it is, the privilege is not confined to words spoken in debate or to spoken words, but extends to all proceedings in parliament. While the term "proceedings in parliament" has never been construed by the courts, it covers both the asking of a question and the giving of written notice of such questions, and includes everything said or done by a member in the exercise of his functions as a member in a committee in either House, as well as everything said or done in either House in the transaction of parliamentary business.

I suggest, Mr. Speaker, that citations of that sort—and there are quite a few of them—underline the proposition that freedom of speech is one of the absolutes that apply to members of the House of Commons. We find this again in May's eighteenth edition, at page 70:

Freedom of speech is a privilege essential to every free council or legislature.

Later we find this:

There could be no assured government by the people, or any part of the people, unless their representatives had unquestioned possession of this privilege. Thus only the House of Commons was concerned in its vindication, and only in its connection with that House could it be a matter of constitutional importance.

The point I am making as a theme to what I am saying is that of the two absolutes, freedom of speech is superior to the dictum that there cannot be reference to a matter that is sub judice. However, in addition to these general pronouncements there are some interesting precedents. This is where James Bond is pushed out of the picture. It is true I have to go back to the year 1512. I would have gone back further, only the difficulty with an instance in 1455 is that even in May's eighteenth edition the references to it are in Chaucerian English.

Mr. Broadbent: And Mitchell would not understand.

Mr. Knowles (Winnipeg North Centre): I would have difficulty reading it, but by 1512 the English was understandable and I shall start there. The case was that of a member of the House of Commons at Westminster by the name of Strode. I gather from the interruptions I am hearing that some members would say he strode across the pages of history, but far be it from me to suggest that. In case members think I have had to dig pretty deeply to find this case, I would point out that even in this most recent edition, May's Eighteenth, it is indexed and there are frequent references to the Strode case as the beginning of the establishment of the precedent that parliament is superior to the courts. The Strode case took place during the fourth year of the reign of Henry VIII. We have all heard of him.

An hon. Member: Simma was not here then.

Mr. Knowles (Winnipeg North Centre): When I said earlier that procedural research is more intriguing than James Bond, my friend from Northumberland-Durham (Mr. Lawrence) said there was no sex in it, but since I have mentioned Henry VIII that should satisfy him. I shall read from page 71 of May's eighteenth edition:

—Strode, a member of the House of Commons, was prosecuted in the Stannary Court for having proposed certain bills to regulate the tinners in Cornwall, and was fined and imprisoned in consequence (h). Upon which an Act was passed (i), which, after stating that Strode had agreed with others of the Commons in putting forth bills, "the which here, in this High Court of Parliament, should and ought to be communed and treated of," declared the proceedings of the Stannary Court to be void, and further enacted that all suits and other proceedings against Richard Strode, and against every other member of the present Parliament, or of any Parliament thereafter, "for any bill, speaking or declaring of any matter concerning the Parliament, to be communed and treated of, be utterly void and of none effect".

If I carry on with what happened in the Strode case, instead of just defending the right of the hon. member for Central Nova to ask questions about Sky Shops here on the floor I might be challenging the right of the courts to deal with his case at all. I will not push it that far, but certainly the Strode case is an interesting one. Lest hon. members think that was a long time ago, in 1512, I would point out that it was referred to in quite a few subsequent cases. A long time later, in July, 1641, there was some discussion of another case and a member of parliament quoted the Strode case. Somebody else said that since that was 100 years earlier it did not count, whereupon the House of Commons on July 8, 1641, declared the proceedings in the Queen's Bench to be against the law. Again, at page 73 of May's eighteenth edition we find this:

The judgment had been given against the privilege of parliament, upon the false assumption that the Act of the 4th Henry VIII had been simply a private statute for the relief of Strode, and had no general operation. To condemn this construction of the plain words of the statute, the Commons resolved, 12 and 13 November, 1667, "That the Act