

Point of Order

Mr. Speaker, I ask that you rule on the minister's comments and if he has, in fact, contravened the sub judice convention and/or citation 493.

Hon. Allan Rock (Minister of Justice and Attorney General of Canada, Lib.): Mr. Speaker, I rise in response to the hon. member's point of order.

First, I take very seriously my responsibilities both here in the House and outside, to respect the jurisdiction of the court, to abide by the sub judice rule and to bear in mind that as minister of the crown, I have responsibilities quite different from those judges of the courts of the country.

I contend as well that nothing I have said here or elsewhere in relation to the Simmerman case or its principle has offended the rule against commenting on cases before the courts.

May I first observe that it is passing strange that the hon. member should first ask me about a case in the House and then raise a point of order because I commented on the case in answering his question. It was in answering the very question put by the hon. member that I am alleged to have breached the rule. I was simply responding to a question put by the hon. member, and doing so in good faith.

Second, as I mentioned the other day, when the hon. member raised this point in question period, there is a great deal of difference between on the one hand commenting on the facts of a criminal case which is in process, whether at trial or on appeal, in a fashion that might prejudice the party, the accused, by indicating what findings should be made or who committed what act—that is highly improper—and on the other hand simply observing that we take a different legal interpretation of a statute which, in fact, is what is at issue in the Simmerman case.

• (1210)

I have said that we regard the legal interpretation put on the Criminal Code and the relevant sections at trial as not being the correct one. In fact, the Alberta government is appealing. The appeal is expected to be heard by the Alberta Court of Appeal in about September of this year. The federal government is now considering whether it will intervene in the appeal to put its point of view before the Court of Appeal.

There is precedent for the proposition. I say there is nothing at all wrong with a minister saying that we take a different legal interpretation of a statute than that put on the statute by a court.

It follows that the interpretation relied on by the court at first instance is not in accord with our interpretation. I suggest what is an issue here is that first we must show proper deference and respect to the court and its process and second, nothing must be

said or done by a minister or a member that would prejudice the rights of parties in a pending case with respect to matters of fact.

I say that neither of those principles has been offended by anything I said or did. This point of order is without foundation.

Mr. Don Boudria (Glengarry—Prescott—Russell, Lib.): Mr. Speaker, I wish to comment very briefly to add to what the hon. minister said.

First, in terms of the sub judice convention and citation 505 of Beauchesne's, it is obvious its purpose is to protect the parties in the case before the court. A member of Parliament has asked a question in the House to which the answer was the position the government would be taking vis-à-vis a particular case in an appeal.

It stands to reason that if the government is appealing the case, it is appealing it because it feels the original decision was in error; otherwise there would be no point in appealing a particular decision.

Second, the reference to the Oulette case is extremely inappropriate; it does not apply to this case. That particular issue had nothing to do with a comment made on the floor of the House of Commons, as the Speaker will obviously determine when he reviews the material surrounding that case.

Mr. Speaker, finally, you will recall through all cases I remember in the House of Commons where the sub judice rule has been invoked, it has been invoked and usually ruled on by the Speaker to ensure members do not ask questions in the House that are sub judice.

If there is a case to be made here, it is that the question should not have been asked as opposed to should not have been answered. Therefore, I am forced to turn the table around and to urge the Speaker that if someone is admonished, it should be in such a way as to remind the hon. members not to ask questions when the questions are sub judice.

Mr. Elwin Hermanson (Kindersley—Lloydminster, Ref.): Mr. Speaker, I would like to bring two more facts to light with regard to this point of order.

First, when the question was asked, it was asked with regard to orders in councils that had been ruled out of order by this case. The question was whether or not the Minister of Justice had the authority to continue making those decisions. It was not a reflection on the case in Alberta.

The second point I would like to make is this. The federal government did not have intervener status in the provincial court case, so the federal justice minister really had no authority to make an intervention in a case that was not under his jurisdiction.

Those are two very important points that need to be brought to your attention, Mr. Speaker.