

by a court of law, should not be brought before the House by a motion or otherwise. This rule does not apply to bills."

Also in the same edition, at page 457: "Matters awaiting the adjudication of a court of law should not be brought forward in debate, except by means of a bill. This rule was observed by Sir Robert Peel and Lord John Russell, both by the wording of the Speech from the Throne and by their procedure in the House, regarding Mr. O'Connell's case, and has been maintained by rulings from the Chair."

Bourinot's fourth edition at page 301 also states: "A matter which is under adjudication by a court of law cannot be brought forward before the House by a motion or otherwise."

Also in Beauchesne's fourth edition, at page 127, is found the following, and this citation which I have before me was mentioned by a number of honourable Members who took part in the discussion, including the Honourable Member for Winnipeg North Centre: "Besides the prohibitions contained in standing order 41, it has been sanctioned by usage both in England and Canada, that a member, while speaking, must not ... (c) refer to any matter on which a judicial decision is pending."

Generally speaking I believe it may be stated that the creation of a royal commission is purely an administrative matter, that the commissioners are not called upon to render decisions on what has been submitted to them, but are only asked to make recommendations which the government is free to act upon or not as it wills. In other words, Parliament is still the highest court in the land. One of its traditional rights is to express its power by the enactment of legislation and this right cannot be set aside by a mere reference of certain matters to a royal commission for a study thereof and recommendations thereon.

As honourable Members well know, commissioners are generally appointed under Part I of the Inquiries Act which simply provides that the Governor in Council may cause inquiry into public matters, appoint commissioners for the purpose, that they shall have the power of summoning witnesses and of requiring them to give evidence on oath. They are, it is true, given such powers as are vested in any court of record, but the wording of the act is that it does not constitute them a court of record.

On October 15, 1957, an Order in Council was passed to appoint commissioners under Part I of the Inquiries Act to inquire into and make recommendations concerning, *inter alia*, policies in relation to the export of energy, the regulation of the transmission of oil and natural gas, the financial structure and control of pipe line corporations, prices or charges, the extent of authority that might best be conferred on a National Energy Board, etc.

A few days later the then honourable Member for Rosetown-Biggart (Mr. Coldwell) sought to discuss the subject-matter of the inquiry. A point of order was then raised submitting that the honourable Member was out of order because he was dealing directly with the terms of the royal commission and a subject referred to it. Mr. Coldwell then said: "May I say, Mr. Speaker, that I am not dealing with the report of the royal commission. When does an announcement that a royal commission is being set up preclude discussion in this House?"

After some argument, Mr. Speaker Michener rose and rendered the following decision which is found at page 119 of the Debates of 1957-58, volume I: "There is nothing on the Order Paper which would preclude a discussion of this matter. The royal commission is not a court of record and