

*Morality in Government*

ears of the ministers of justice. The purpose of the Spence Commission is surely not to investigate as to how the Prime Minister has taken cognizance of the Munsinger affair or how he asked for the file.

In the circumstances, I believe this is a new matter and that the hon. members should be entitled to discuss it. I do not mean to say that it is appropriate to discuss it now, while the people expect something positive from us, namely legislation. But I say it is a privilege of the members to discuss it and if the members wish to avail themselves of the privilege, it is their right to do so. I am not in favor of pursuing the debate interminably on this matter, I feel rather that it is time that the house go on to, the positive consideration of legislation.

[*English*]

**Mr. Fulton:** I wish only to refer Your Honour to the situation which now prevails in the United Kingdom. I do so because the select committee on procedure which sat in 1962 and 1963 gave specific attention to the question of what is involved in the phrase "sub judice" in so far as it may restrict the right of discussion in parliament.

For my authority I refer to the seventeenth edition of May. At page 454 hon. members will find set out specifically how the sub judice rule applies. It bars references in debate to "matters awaiting or under adjudication in all courts exercising a criminal jurisdiction and in courts martial."

**Mr. Martin (Essex East):** What edition is that?

**Mr. Fulton:** The seventeenth edition at page 454. The commission here is not a court exercising criminal jurisdiction.

In the second place, reference is barred with respect to "matters awaiting or under adjudication in a civil court." Once again, a commission of inquiry is not a civil court. Third, the citation speaks of the ban applying "in the case of any judicial body to which the House has expressly referred a specific matter for decision and report".

It is clear from what has happened earlier in this chamber that the House of Commons did not approve or in any way pass upon the terms of reference to this commission. The inquiry was set up entirely as an act of the executive. I appreciate that the rules of the parliament of the United Kingdom are not ipso facto the rules which govern us here, but since a committee there has given careful

consideration to this question and set out in detail what the phrase "sub judice" really means, I do suggest this is something which should be taken into consideration by Your Honour as having great weight in reaching a decision on this subject.

**Mr. Knowles:** I wish to support briefly the position taken by the hon. member for Greenwood, a position which has been supported by others. I should like to begin by drawing attention to something which is not in our Standing Orders as well as to the only reference to this matter which is to be found in the citations covering our proceedings.

First, may I point out that in our Standing Orders as such there is no sub judice rule. There is a Standing Order—I believe it is number 35—to the effect that members cannot speak disrespectfully of the Sovereign and certain other persons. But there is no such thing as a sub judice rule in our Standing Orders.

Nevertheless, in our citations—and we are governed largely by them—there is item 149(c) to be found in Beauchesne's fourth edition at page 127. This is the one which deals with reflections on the Sovereign, and it says:

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

I would add that if one looks up "sub judice" in the index to Beauchesne he will find that this is the only prohibition to which reference is made, namely, that a member cannot refer to a matter on which a judicial decision is pending. I would point out that the question which has been referred to Mr. Justice Spence is one calling for him to inquire fully into certain matters. I have before me the full text of the order in council as it was tabled in this house on Monday, March 14, 1966 and as recorded at pages 287 and 288 of *Votes and Proceedings* for that day. It is a lengthy order in council and I will not read it all, but I have checked it over carefully. All it does is appoint Mr. Justice Spence to be a commissioner to inquire fully into several things. These things are spelled out. But there is no suggestion anywhere in the order in council that Mr. Justice Spence has to make a judicial decision; he has to inquire into the matters which were referred to him.

I agree with my hon. friend from Greenwood that for the most part the subject which the hon. member for Royal was raising