

*Speaker's Ruling*

Yesterday the hon. member for York Centre rose to ask a question which was based on statements made by a staff sergeant of the Royal Canadian Mounted Police in a court of criminal law relating to the budget leak of April, 1989. I said at the time that I appreciated the courtesy of the hon. member for York Centre in advising the Chair that he was going to rise on the question, and as hon. members will remember, I decided that it was not appropriate to proceed at that time. I expressed reservations because the matter was before a court of justice and the hon. member and others agreed to pursue a point of order after Question Period and present their argument that the *sub judice* convention should not apply in this particular case. I want to thank again the hon. member for York Centre and others for their co-operation on this delicate but important question.

I should first explain the issue that is of concern to the hon. member so that all hon. members and the public will fully understand the context in which this matter arises. It is alleged by the hon. member for York Centre that according to a sworn statement by a witness in a court of criminal law to the effect that the independent responsibility of the Royal Canadian Mounted Police to lay charges in criminal cases has been interfered with and the hon. member for York Centre wished to put questions to the Solicitor General and wished to have the Solicitor General answer to that specific allegation.

Against this desire to enquire further, the hon. member is confronted by the convention of this House that, and I quote: "Members are expected to refrain from discussing matters that are before the courts". I might emphasize that that is much more severely applied in the question of a criminal trial. The reason for this convention is to protect those persons who are undergoing trial and stand to be affected by whatever the outcome of the trial is. I point out that it is also because the trial may be affected by an exchange of debate in this place.

Yesterday the hon. member for York Centre argued that the convention should be suspended because the process by which charges were laid is, and I quote the hon. member, "not material to the criminal case now proceeding".

[Translation]

The Chair has also heard the arguments of the Hon. Member for Oshawa (Mr. Broadbent) and the Minister of Justice and Attorney General of Canada (Mr. Lewis). The Hon. Members for Windsor West (Mr. Gray) and Churchill (Mr. Murphy), as well as the Parliamentary Secretary to the Government House Leader, also expressed their opinion on this subject.

• (1420 )

[English]

I have now since yesterday, reviewed all of the comments offered. I have also reviewed the transcript of the court proceedings, at least up until, I take it, close of court yesterday. My research delved into all of the precedents referred to in citation 336 of Beauchesne's fifth edition and also the report of the Special Committee on the Rights and Immunities of Members tabled in the House on April 29, 1977, which commented at length on the *sub judice* convention. I point out that while that report was submitted to the House it was never adopted by the House, but I have read the report in its entirety and most of the appendices attached thereto.

The precedents and rulings found in citation 336 of Beauchesne are very convincing. My predecessors, in cases of criminal proceedings, have applied the convention consistently. The British practice which was referred to by the Parliamentary Secretary to the Government House Leader is based on a very specific resolution adopted by the British House of Commons on July 23, 1963. That resolution in the British House gives their Speaker clear guidelines and specific authority. The Canadian House has never pronounced itself in such clear terms and I say to the hon. member for York Centre that I realize that he was recognizing that fact, at least to some degree, in his argument yesterday.

The committee did, however, comment on the role of the Speaker at page 1.11 of its report tabled in the House on April 29, 1977. It said:

Your committee has given consideration to the role of the Speaker in the application of the convention. It is submitted that while there can be no substitute for the discretion of the Chair in the last resort, all Members of the House should share the responsibility of exercising restraint when it seems called for.