

Mr. Speaker, I have a question for either the Minister of Justice or the Solicitor General, whoever has the ultimate responsibility. It deals with the case of one Alexander Peter Treu recently convicted after a secret trial under the Official Secrets Act and sentenced to two years' imprisonment.

Can the hon. gentleman advise of the nature of the restrictions placed on Mr. Treu to prevent him from discussing any aspects of the facts of this case, this having taken place at the time of the conviction, the sentence and the application for bail on leave to appeal? Were such instructions given by the government to counsel to press for such restrictions? Would these restrictions have the effect of prohibiting myself or any other member of parliament from discussing the facts of the case with Mr. Treu?

Following the answer of the Minister of Justice I posed a supplementary question, which read as follows:

I suppose the latter part of that answer might properly mean inquiring what facilities might be available to members of parliament. I would like to ask this supplementary. At the time of the conviction, the judge stated that Mr. Treu was not a criminal in the regular sense of the word. After the investigation commenced, Dr. Treu was continuing to receive the documents. After the trial commenced, NATO awarded to Dr. Treu and/or his company a contract dealing with classified communications systems.

Will the minister obtain and table in this House a transcript of the comments of the trial judge at the time of the conviction and at the time of the sentencing, so that we can determine whether there was a case of security or whether there was an element of bureaucratic bungling?

As far as I know, there has been no tabling of those documents. My instructions are that they have not been tabled.

Finally, on May 23, I rose to present another motion under the provisions of Standing Order 43. I was encouraged to do so by the fact that the House gave unanimous consent to a motion moved by the hon. Leader of the Opposition (Mr. Clark) dealing with the kind of proceedings in a case in the Soviet Union. It was not a question of fundamental law, but it was a question of the type of proceedings which were taken in respect of certain dissidents in the Soviet Union. Then I moved the following motion:

That this House deplores the dangerous form of secret trial and the continuing restrictions involved in the case of Alexander Peter Treu which are contrary to the usual practice of Canadian justice.

That motion also was rejected. Acting Chief Sessions Court Justice Mayrand was critical of myself, because I made comments about the manner in which this trial was conducted under the provisions of the Official Secrets Act.

I have practised law for nearly 50 years. During part of that time I have had the honour of being a bencher of the Law Society. It is the right of every barrister, if he is going to appeal, to be critical within the terms of the law and the convention and conduct of a trial. I am sure the right hon. member for Prince Albert (Mr. Diefenbaker) had occasion to study some of the appeals in which he was involved. I used them as precedents in my own trials. Any competent lawyer going to appeal, from time to time has the necessity of being critical of the conduct of a trial, doing so within the limits of convention and custom.

The examination of a witness by a judge, and the manner in which the judge presents the case to the jury, are subjects of logical criticism by a member of the bar. That has been my experience over the years. What I have read and what I have

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said outside the House were not in any sense personal criticisms of the trial judge.

I should like to refer to a decision of the Quebec Court of Appeal which affects this House. It deals with the case of the present Minister of State for Urban Affairs (Mr. Ouellet). At that time Quebec Chief Justice Tremblay, as indicated at page 97 of the Dominion Law Reports, Volume 72, third edition, said the following:

Certainly, the decisions of judges are subject to criticism as are the decisions of all other public men.

Then he went on to indicate that there must be some moderation of criticism. It would be monstrous if members of the House were not entitled to be engaged in reasonable criticism of the conduct of judges in the carrying on of judicial proceedings.

What I have read indicates that I did not exceed what I believe to be fair and reasonable comment. As a member of this House I would be in dereliction of my duty if, upon finding those facts, I failed to do anything. I would count myself as having failed to discharge my responsibility if I did not call attention to what could be an injustice because of improper, unusual or unexpected use of the laws of this land.

Judge Mayrand went on to make further comments. He said:

He also complained that even the judgment is secret because it refers to trial proceedings.

Well, I am in good company. A number of newspapers made the same comment. I have before me a copy of the Friday, March 17, 1978, edition of the *Globe and Mail*. Its headline reads: "Even verdict will be given secretly at Montreal trial". If the *Globe and Mail* can say it, even I can repeat it. Also Judge Mayrand indicated the following:

Baldwin should not set himself up as a court of appeal, all the more so because he is in complete ignorance of the facts placed before the court.

Of course I am in ignorance of the facts, as are 99.9 per cent of the people of Canada.

Some hon. Members: Hear, hear!

An hon. Member: That includes the Minister of Justice (Mr. Basford).

Mr. Baldwin: I would be perfectly willing to take the chance of talking to Dr. Treu. But as I understand the situation, if I was to talk to him he might well forfeit his bond and be sent back to jail. For that reason I have never talked to him. All the information I have is from instructions given to me by people who, I hope, know something about the situation.

● (1512)

The Acting Chief Judge went on to say, speaking of myself: We advise him respectfully to be satisfied with doing his work; namely the improvement of the Official Secrets Act if it appears unjust and abusive.

For some four years, Mr. Speaker, that is just what I have been trying to do. At a meeting of the Standing Joint Committee on Statutory Instruments and Other Regulations that was