

*Official Secrets Act*

rule and have stuck to the main issues of the debate rather than reflecting upon the two cases mentioned. The hon. member for Lanark-Renfrew-Carleton (Mr. Dick) did make one or two remarks about the merit of those cases, but soon returned to the main point.

It is interesting to note, since there have been comments today about what the British parliament does in relation to its official secrets act, how the British House also treats the sub judice rule. Let me refer to Erskine May, nineteenth edition, at page 427. Under the heading "Matters pending judicial decision", May states:

Matters awaiting the adjudication of a court of law should not be brought forward in debate, subject to the right of the House to legislate on any matter;

It goes on in the subsequent paragraph to state:

Following the first report of the Select Committee on Procedure, 1962-63, the House passed a resolution (23 July 1963) which set out the rule in detail. This resolution bars references in debate (as well as in motions and questions) to matters awaiting or under adjudication in all courts exercising a criminal jurisdiction and in courts martial from the moment the law is set in motion by a charge being made to the time when verdict and sentence have been announced, and again when notice of appeal is given until the appeal is decided;—

● (1612)

That rule sets out a wise caution on matters of procedure and of debate such as we are into. I am not so sure if this were the British House that this same motion would have been allowed to be brought forward this afternoon by an hon. member, such as the hon. member for Peace River (Mr. Baldwin), in the same wording and debated in the same fashion.

This side of the House has participated quite willingly in the debate this afternoon, and the Minister of Justice (Mr. Basford) himself said somewhat earlier in the course of the session at page 3882 of *Hansard*:

This House has established a committee to examine the privileges and immunities of members of parliament, including the application of the Official Secrets Act. That examination is necessary and, in my view, urgent. It is essential to protect the position of members of parliament to continue to be able to speak freely and candidly in carrying out the responsibilities that we bear on behalf of our constituents and the country at large without any harassment.

I point that out because the hon. member for Peace River in his speech this afternoon spoke of the harassment of an individual and a newspaper corporation. I think it explains quite adequately the position of the Minister of Justice.

The wording of the motion by the hon. member for Peace River gives me some trouble. To me, it is not just a mere reference to a matter before the courts, but it strikes me that the hon. member bases his motion to examine the Official Secrets Act on the obvious premise that the courts are no longer able to discharge their function of ensuring that the criminal process is not used for abusive ends. Where will it all end? Are we then to abolish all courts of appeal and refer judicial decisions to the hon. member for Peace River?

During the course of his comments, the hon. member compared the trial of Dr. Treu to the Star Chamber. I urge him to reflect upon that and to look into some law books and perhaps some legal history. The Star Chamber was a court of investigation and torture from which there was no appeal. To make

[Mr. Young.]

reference to that infamous chamber in the context of comparing it with a modern day Canadian court with the attendant regard for due process, the rights of the accused, the presumption of innocence and the right of appeal, is something of a slight upon our judiciary, our laws and the rule of law in this country.

Does the hon. member really believe that the courts act judicially and fairly only in an open court? Is he serious in implying that Judge Trudel applied a different test to guilt or innocence in a closed court than he would have done otherwise in an open court? If the hon. member has any basis for such an allegation or such a comment on the judicial integrity, I would suggest that it is his duty to make it public. If not, then he would be doing himself, the bench, the country and this House a disservice.

**Mr. Baldwin:** I am waiting until the facts are made public.

**Mr. Young:** Mr. Speaker, the decision to hold the trial in camera was a decision for the judge, but only after he provided an opportunity to both sides, the prosecutor and the defence, to be heard on the question. It was pointed out earlier by the Minister of Transport (Mr. Lang) that in the Treu case the defence was given the opportunity to argue why the trial should not be held in camera, and counsel for the defence did not oppose the motion to proceed in camera.

In the course of the remarks made by the hon. member for Peace River today, he said that it may be possible to guard some secrets. He did not expand, but he said that perhaps at some time there may be a need to guard closely some secrets. However, in the course of his remarks today he called the Official Secrets Act a "stupid, tyrannical, authoritarian law deserving of contempt". I do not know how you can provide a law to protect secrets on the one hand, and on the other hand feel that it is "stupid, tyrannical, authoritarian and deserving of contempt." How can you balance those two points of view in your mind? Therefore, I am not quite sure exactly where on the real crunch of the issue the hon. member for Peace River comes down.

The hon. member said today that the scope of the Official Secrets Act should be limited to matters of national security and defence. I have yet to hear him come forward with a definition of the term "national security".

**Mr. Baldwin:** It is in my private member's bill. I have tabled it.

**Mr. Young:** I did not hear that put forward in the debate this afternoon.

**Mr. Baldwin:** I don't need to.

**Mr. Young:** Well, I did not hear it put forward in the debate this afternoon, but if the hon. member has a good definition, why did he not bring it in in the course of his remarks today?

**Mr. Baldwin:** Repetitious.