

Points of Order

it before the House since I believe the *sub judice* convention should only be used when it is proper to do so and not unfairly used to restrict debate in the House.

I want to quote from Beauchesne's first on the purpose of the *sub judice* convention to protect the parties in a case awaiting or undergoing trial and persons who stand to be affected by the outcome of a judicial inquiry. It is a voluntary restraint imposed by the House upon itself. Citation 336(1) of Beauchesne's goes on to state:

The *sub judice* convention has been applied consistently in criminal cases.

However citation 337(1) states:

No settled practice has been developed in relation to civil cases, as the convention has been applied in some cases but not in others.

Citation 337(2) states further:

In civil cases the convention does not apply until the matter has reached the trial stage.

Of course, in this case the matter is beyond the initial hearing and the initial judgment and is now under appeal.

I also point to Citation 339 of Beauchesne's which reads:

The Special Committee on the Rights and Immunities of Members recommended that the responsibility of the Speaker during the question period should be minimal as regards the *sub judice* convention, and that the responsibility should principally rest upon the Member who asks the question and the Minister to whom it is addressed.

As you know, Mr. Speaker, I gave careful thought to my question and you were consulted in advance about the nature of the question that was intended to be put. Citation 339 further states:

However, the Speaker should remain the final arbiter in the matter—

I am raising this question because I think it is quite important that the *sub judice* convention not be used unduly to restrict debate in the House or to restrict Question Period. I wonder if we could have your ruling on whether in fact this matter is *sub judice* in a way that limits questions and answers in the House.

SPEAKER'S RULING

Mr. Speaker: The hon. member for Ottawa West has asked a question, as I mentioned earlier today, with reference to some public reports which suggest that a judge in the Rafferty-Alameda case before being

appointed to the bench and while practising law acted for certain clients who are interested in the results of the entire Rafferty-Alameda project. That information has been made public; it is in the public domain.

The hon. member, I know, has been concerned about not trespassing further than a member ought and did make some inquiries through her colleague of me yesterday.

I allowed the first question. The hon. Minister of Justice rose and said the matter is before the courts and she is declining to answer. Whether the Minister of Justice was invoking for her own particular purposes the *sub judice* rule, I do not know, but I want the hon. member to know that I was not invoking the *sub judice* rule.

I accept, certainly for the most part and under most circumstances, the quotations that the hon. member for Ottawa West has given me from Beauchesne's. There is a clear distinction of course in criminal matters and in civil matters.

I assure the hon. member and other hon. members that my concern the second time around was not directed to *sub judice*. My concern was whether or not the minister is in a position as a minister to deal with that particular issue, because it could be said to reflect on the minister's wish or otherwise to direct a case to one judge or another. I have had some time to reflect upon that, and I think that my decision in the first instance in allowing the question to stand was the correct one.

• (1510)

I want to assure the hon. member that my concerns were not turning on *sub judice* at all. It was turning on another matter which frankly had never come before me before. On reflection I think that the question was appropriate and the hon. member may want to pursue it, but it is also very clear that a minister does not have to answer a question. Whatever reasons the Minister of Justice might have in her own mind for not answering it is of course her own business. The minister does not have to answer whether it is *sub judice* or whether it is not.

In any event, I thank the hon. member for putting the question. I also appreciate very much the hon. member taking the effort to come to the Speaker beforehand on an issue which could be difficult, but I do want to