

Supply—Justice

clear at the first opportunity that he did not mean it, because if he means it, it means that this government believes its actions are above review by the courts.

Mr. Turner: Review by parliament.

Mr. Fulton: Of course it is subject to review by parliament. But is my hon. friend saying that parliament should be given all this evidence, the very things the government is clutching to its bosom and saying it cannot reveal? Is he now saying that this evidence should be given in parliament? I think he and the Minister of Justice should get together before making that kind of contradiction.

What we are saying is that there may have been proper grounds on which the government decided not to take this case to court, but it was an executive decision and we want that decision reviewed by a competent body, and that competent body would be a judge carrying out a judicial inquiry in camera.

I do not think it is necessary to rehearse all the features of this case which make it a special one, although I have heard it suggested, in answer to our request, that we do not normally deal with these cases this way. Of course we don't, but this is a special case. As I said, in the first place the accused has been named, without opportunity of trial, branded a criminal and branded a spy. Second, he is now under constant surveillance.

Of what other man in Canada can it be said—and I hope it will never be said of any other man—that he, like the man named Victor Spencer, shall be under constant surveillance from now until the day he dies? When this question of the propriety of their conduct is raised, my hon. friends opposite regard it as a personal attack on the minister; but the third and most important distinction between this case and all others is the fact that Spencer himself has said, "They dare not prosecute me because if they do heads will roll."

Now, sir, can anyone conscientiously argue on the government side that this is a case which should be buried and left there? If it is buried and left there, it means that the very administration of justice is under a cloud, that the Minister of Justice is under suspicion, that the Prime Minister is under suspicion of refusing to have this matter investigated by a judicial inquiry because they dare not, because heads will roll.

Why don't they do the simple, obvious and decent thing? Why don't they unbend their stubbornness? Why don't they say, "All right,

[Mr. Fulton.]

we will have a judicial inquiry. We will clear up these doubts and place the administration of justice beyond question and impeachment in this country"? Until they do that, Mr. Chairman, unfortunately the administration of justice will continue to be under a cloud.

Now may I just say a word with respect to my own intervention in this debate. I was very interested to read the words of the Minister of Justice as recorded at page 1885 of *Hansard* for February 28, when he said:

The hon. member for Kamloops, for whom I have great esteem, is well acquainted with the difficulties involved in the handling of security cases—

I say, yes I am, and I recognize that these decisions are not easy. The minister continued:

—and I am sure he will agree with me that no minister of justice would have authorized a prosecution when his legal advisers had recommended that the evidence admissible in court could not and would not carry a conviction.

Again I say I quite agree. It may well be that that was the case. That may have been the advice; but since this is an executive decision, passed upon only by the servants of the executive, it is perfectly appropriate for us to ask to have that decision, in the light of the extraordinary circumstances of this case, reviewed by a competent judge.

The minister went on:

I also feel quite sure that any minister of justice would be extremely sensitive to the possibility of divulging our counter-espionage activities.

I am. I agree with him. It is one part of his decision which, if it be well based, I respect. But what we are asking for is to have an inquiry which will make a report to us on whether this decision was well based, whether the case could not be taken to court without divulging essential security measures.

Mr. Cardin: Would the hon. member permit a question? Does he feel that this type of an inquiry into decisions that have been taken wisely should continue in all types of security cases?

Mr. Fulton: No, Mr. Chairman. I have endeavoured to make that clear. This is an extraordinary case. This is not the average case.

Mr. Cardin: Why?

Mr. Fulton: I think I gave the minister the four features, the four factors that clearly distinguish it from every other case and make it extraordinary. Perhaps I should repeat them. First, we have a man branded publicly as a criminal.