

Administration of Justice

innocence I know not. That is precisely the effect of this document, and I would ask the hon. member for Medicine Hat how he would like to appear before the criminal courts of this country with the only allegation against him that he was charged, with nothing more being said.

An hon. Member: How would you?

Mr. Nielsen: I hear an hon. gentleman across the way asking how I would like to appear. I should not like to appear before any judicial inquiry on that kind of basis. I would want to know what it is the right of any subject to know, let alone a member sitting in this house who has had to suffer the blackening of his name in this kind of way, namely, what I am charged with. Otherwise how am I to answer?

I would submit, sir, that the tests dealing with the investigation of the conduct of a member are set down, as your Honour so rightly pointed out, by Speaker Michener in the ruling which was quoted by you both on Thursday and on Friday. What Your Honour and Speaker Michener said was this:

In my view, simple justice requires that no hon. member should have to submit to investigation of his conduct by the house or a committee until he has been charged with an offence.

That is the situation. This is the principle which protects not only the rights of the members of this house but the rights of every subject of this country, indeed of any democratic country. It applies equally as well, sir, to the kind of device which has now been set up, as is set out, on the recommendation of the Prime Minister. This Order in Council constituting what the government purports to call the terms of reference of a judicial inquiry is a most incredible hodge-podge of vague generalization, disconnected and unattributed charges, unspecified allegations of deeds committed by unnamed persons and based upon hearsay, information which the minister says he has been briefed on and which came out of a file he has never seen.

Mr. Cardin: I have staked my seat on my allegations.

Mr. Nielsen: Surely the Minister of Justice cannot overlook the fact that in this country justice is not administered on the principle that any person can be charged on the basis of hearsay evidence.

Mr. Cardin: Just have the judicial inquiry and you will see what happens.

Mr. Nielsen: Are we establishing the principle that anyone can be called before the courts of this country on the basis of "Did you hear that so and so did such and such?"

Mr. Cardin: Just have the judicial inquiry and see what happens.

Mr. Nielsen: Or is it the basic fundamental requirement of justice in this country that before any accused person stands to answer for his conduct he must know exactly with what he is charged and by whom? I ask, is that not the principle? On these terms of reference one may as well ask a judge to inquire into the content of the wisps of cloud floating over the Peace Tower. The only name mentioned in this document which sets up the inquiry is Gerda Munsinger. Does the Minister of Justice want to try her? This was, no doubt, the only name which the government thought safe to mention. The word "minister" or "ministers" does not appear in the Order in Council at all.

There is reference in it to a statement made by the Minister of Justice in a letter dated March 11, 1966 to the Prime Minister with reference to a case involving one Gerda Munsinger. This letter was read to the House of Commons on March 11, 1966. The first paragraph of the letter has no bearing on the subject matter of this inquiry and is already in *Hansard*. The first half of the second paragraph of the letter has no bearing for the same reason. The last sentence is an exculpatory sentence and surely should be deleted from any terms of reference setting up an inquiry because it interferes with the very thing which the judge has to decide for himself.

● (9:10 p.m.)

That is the first head upon which this inquiry is to be set up. Yet nowhere in the letter referred to does the name "Gerda Munsinger" appear. It appears nowhere. There is a reference to a press conference which, as the terms of reference set out, included statements about involvement with the said Gerda Munsinger. It does not say whose involvement or what involvement or what was wrong in that involvement, assuming that any involvement took place. We do not even know that from the Minister of Justice.

The Minister of Justice starts out by saying, "among other things." What other things are those? What other things are going to be charged by the minister? The terms of reference contain the words "statements about