

statement I do not think anyone in this House, on either side, would be in disagreement.

So the matter is one of considerable importance. I would argue that our raising questions about the ongoing application of the principles of justice and the administration of law in terms of the minister exercising or not exercising his responsibilities correctly is not pertinent to whether Mr. Small was guilty or innocent of the charges that have been brought against him.

That, in essence, is my point. I think the matter is extremely serious. There were many of us in the House at the time this budget leak took place who thought the government was acting in an inappropriate way and said so at that time. Questions were raised, answers were provided that, on the surface, one had to accept in accordance with one of the rules in the House. Now we have testimony in a court of law that is extremely damaging to the government in the sense that if it is accurate it should concern all Canadians. The implications are that the administration of justice in Canada is taking place in a partisan way, not to ensure that the law of Canada is applied in an equitable way but to ensure that the political agenda of the government of the day is adhered to.

That is extremely serious and if it continues for some period of time before the courts then the administration of justice in the country is at stake. It seems to me that we on the opposition side have a fundamental obligation to pursue this matter, not as to whether Mr. Small is guilty or innocent—the courts are looking after that—but to determine as soon as possible if there is political interference in the application of justice in this country. That to me seems to be the issue.

Hon. Doug Lewis (Minister of Justice and Attorney General of Canada): Mr. Speaker, I appreciate the opportunity to enter into this discussion, however briefly, in view of the nature of the question before the House. I think we would all do well, as was referred to in Question Period, to briefly look at Citations 335 and 336 of Beauchesne which, under the heading, Sub Justice Convention, states:

Members are expected to refrain from discussing matters that are before the courts or tribunals which are courts of record. The purpose of this sub justice convention is to protect the parties in a case awaiting or undergoing trial and persons who stand to be affected by the outcome

Privilege

of a judicial inquiry. It is a voluntary restraint imposed by the House upon itself in the interest of justice and fair play.

Section 336(1) states:

The sub justice convention has been applied consistently in criminal cases.

Citation 336(2) says:

The precedents in criminal cases are consistent in preventing reference to court cases before a judgment is rendered; however, the convention ceases to apply after the judgment is given.

It goes on to say:

Nevertheless, the convention is applied again when an appeal is launched.

• (1520)

Reference has been made by my friend from York Centre to “the question of higher values”, I believe he said. I say to the House, to my honourable friends who have argued this, that there can be no higher value at this time when the case is before the courts as we speak than the right of the individual who is being charged, and all those involved in the trial, to a fair trial. I do not think that we can in any way suggest that this very important convention be waived at this time because we have no way of knowing how anything said by anyone, either the questioner or the person being questioned, may affect the outcome of that trial.

I appreciate that the government is here to be held accountable, and we do not shirk from that. I appreciate it is the job of the members opposite to hold the government accountable. But I believe it is for the courts to decide what weight should be given to any evidence and any comments. Testimony, after all, before the courts, in any case, is sworn testimony. There will be a time and there will be a day when this matter can be pursued and at that time it may very well be that my hon. friends will find that that is the issue of the day.

The issue of the day for the defendants and the witnesses, all those involved in a trial, is the trial before the court at this time. I am sorry, I stand to be corrected, but to me the ability of a person to have a fair trial supersedes the right of any member of this House to endanger, within or outside the walls of this House, that fair trial.

I would submit to you that the rule has grown up under those circumstances. I think it is a very fair rule. I do not think that we should in any way tamper with it at this time because the right of an individual to a fair trial