

*Privilege*

I did not lay these charges because I had formed the opinion that they were intended to please elected officials.

He said similar things that contradicted what Commissioner Inkster had to say. When he refused to lay such charges he was taken off the case.

My point, Your Honour, is this. Either there was a contempt of the court yesterday by Staff Sergeant Jordan, or there was contempt of Parliament earlier by Commissioner Inkster.

The very possibility of a contempt of Parliament is extremely serious, it does not need emphasis here in the House. Therefore, Your Honour, if you consider that I have a *prima facie* case I will move the appropriate motion to have this subject referred to the Standing Committee on Justice and Solicitor General.

• (1110)

**Mr. Albert Cooper (Parliamentary Secretary to Government House Leader):** Mr. Speaker, as I see this point of privilege by the hon. leader of the NDP, essentially we are up against the same issue we were up against yesterday and that is the question of *sub judice*.

We argued yesterday, and I do not want to go back through the Erskine May or the Beauchesne arguments because I think they are clearly on the record and I do not want to take the time of the House.

However, we have very serious concerns that in fact this whole issue is *sub judice* and will have an impact on the trial. I would like to take a couple of moments to read from a notice of motion which was to be filed on Monday, November 6, at ten o'clock. It is, of course, the motion calling for an order staying all proceedings against all of the accused in this matter.

The grounds of the motion are, and this is what I would like to refer to:

1. This proceeding is an abuse of the process of this court in that:

(a) the charges against all of the accused have an improper motive in that the charge was laid and the proceedings continued in an attempt by the Executive to achieve political ends unrelated to the valid exercise of the criminal law power;

In fact then, one of the fundamental elements of the total basis of this trial is whether or not this trial was politically motivated or whether in fact it is a trial arising

out of criminal actions. That is the very substance of this court case.

So I would argue that not only was the matter raised yesterday *sub judice*, and we await your ruling on that one, but that this reference as well to a committee hearing is also *sub judice* and any reference to that issue which reflects in any way on that trial in this House by way of debate, by way of a point of privilege, by way of a point of order, or by way of a question, would in fact be *sub judice*.

I want to argue in the strongest possible terms that we believe that this issue is *sub judice* and even to raise it in the guise of a question of privilege falls under the same guidelines.

We indicated yesterday that we have no political problem with answering those questions at an appropriate time. But we are very much concerned with in any way appearing to contribute to a mistrial in a case that is presently before a court in this particular province.

**Hon. Bob Kaplan (York Centre):** Mr. Speaker, I admire the ingenuity of my friend from Oshawa in the argument that he has put forward. What I took from his submission is the tremendous importance that Parliament deal with the substantive and fundamental issues that were raised by the questions that I attempted to ask in the House yesterday.

I took it also to indicate the importance that some way be found through the voluntary restraint that we impose on ourselves in the form of the *sub judice* rule in cases like this where fundamental questions going to the root of the responsibility of the RCMP and of the government be dealt with. I understand the argument from the parliamentary secretary is that the question is really the same as that which was raised yesterday.

I make this intervention looking forward with anticipation to your ruling on the questions raised yesterday.

**Hon. Herb Gray (Windsor West):** Mr. Speaker, it is interesting that the spokesman for the government, the parliamentary secretary, says that we should not be mentioning the matter of the Small case in any way in this House and yet he reads out and puts on the record a motion that led to the testimony yesterday of Staff Sergeant Jordan. I suggest that the parliamentary secretary cannot have it both ways.