

Inquiries of the Ministry

The minister has unequivocally made reference to the document in question. In order for the House to come to its own assessment, that document should be produced. In Sir T. Erskine May's *Parliamentary Practice*, 13th edition, at page 328, the following is set forth toward the bottom of the page:

Another rule, or principle of debate, may be here added. A minister of the Crown is not at liberty to read or quote from a despatch or other state paper not before the house, unless he be prepared to lay it upon the table.

In my submission to Your Honour I will have a few words to say with regard to the words "read or quote". At the foot of the page it reads:

This restraint is similar to the rule of evidence in courts of law, which prevents counsel from citing documents which have not been produced in evidence. The principle is so reasonable that it has not been contested.

It might be advanced to Your Honour that before the Crown is required to produce such a document and lay it on the table it must be cited or quoted. I submit that the minister's reference to the document, in effect disclosing a part of its contents or purporting to disclose a part of its contents, is precisely the same as quoting from the document itself.

The only other argument that I can anticipate might be advanced to Your Honour is that the proceeding that is now before the House, namely the oral question period, is not a proceeding. With regard to that anticipated argument I refer Your Honour to Ontario Reports, 1971, volume two. I know it is not a binding precedent on the House. It involves the case of Roman Corporation Limited against Hudson Bay Oil and Gas Company Limited with regard to certain statements made by the Prime Minister and the Minister of Energy, Mines and Resources concerning privilege with respect to statements made by those two ministers of the Crown in the House. The Chief Justice of the High Court came to the conclusion, presumably after careful and considered research, that neither the House of Commons nor any court of law had ever determined exactly what was a proceeding of the House. The honourable justice did conclude that a proceeding did in fact include a question asked or even notice of a question asked in the House.

Anticipating those two arguments which may be advanced to Your Honour, I submit there is a clear obligation from a purely technical point of view on the Crown that it must produce this document now that the minister has referred to its content. Even if there were not that technical requirement, which I submit very strongly does exist, then there certainly exists a moral obligation on the part of the Crown to clear up the confusion in the minds of the public—

An hon. Member: You are getting out of your field.

Mr. Nielsen:—and certainly in the minds of the inane members opposite so that the House can judge for itself who is lying, the *Montreal Gazette* or the Acting Prime Minister.

Mr. MacEachen: Mr. Speaker, if I may make a comment or two on the point of order raised by the hon. member with regard to an obligation on the part of the Acting

Prime Minister to table a particular document, I believe there is a justification for that particular obligation—

Some hon. Members: Hear, hear!

Mr. MacEachen:—if a minister of the Crown in the course of debate, as the citations indicate, is using a document, is quoting from it, is basing an argument upon it. In a circumstance of that kind it is unfair for a minister to have access to information or an analysis that is not available to other members of the House. It is unfair because other members are not in a position to assess for themselves the total context from which quotations may be taken.

Mr. Nielsen: Precisely.

Mr. MacEachen: Certainly that is related to a debate in which an argument is taking place and in which a minister has occasion to use a document and quote from it. With that situation there can be no dispute. Indeed, there is a rule of the House which requires a member, if he quotes from a letter from a constituent, to table that letter if asked to do so.

Mr. Baldwin: No.

Mr. MacEachen: That requirement has been followed in the past. In recent years it has fallen into disuse. It is not possible for any member to quote from a document unless he assimilates that document into his own speech.

The situation that has now occurred is not akin to any of those I have mentioned. The Acting Prime Minister has no document, has not quoted from any document and has not used any document in argument. All he has said in reply to a question by the Leader of the Opposition is that he takes a serious view of the security situation because a particular document has been improperly disclosed. He went on to say that the account in the *Montreal Gazette* contains discrepancies. It is true the Acting Prime Minister has referred to a document. It would be impossible for him to reply to the Leader of the Opposition without referring to the document. No one questions that, but it is rather silly to suggest that every document to which a person refers has to be tabled in the House. We refer to cabinet decisions that have been taken. We all know that cabinet decisions are written. Must we then table them in the House? Of course not.

• (3:20 p.m.)

In this case I would contend that because the minister has not quoted, has not used, any document in argumentation but has merely referred to the existence of a document as a result of a question asked, there is no obligation upon the government to table that document at all.

Mr. Baldwin: Very briefly, Mr. Speaker, I think that in his defence of the Acting Prime Minister the President of the Privy Council has in fact condemned him and has indicated that the point made by my hon. friend from the Yukon is well-founded. There is no doubt that in the context of the answer the Acting Prime Minister gave to my leader he indicated he was aware of the document and of its contents as printed in the *Gazette*. He further said, by implication, that these documents were not quite the same because there had been one change. I submit these