

Motions for Papers

Mr. G. J. McIlraith (Ottawa West): I wish to proceed, Mr. Speaker, but I wish to raise a point of order as to the right of the minister to refuse production. I will try to keep my remarks strictly relevant to the point of order, and to make them brief.

Some hon. Members: Question.

Mr. Speaker: I doubt whether any such point could arise on a motion on which the house itself will decide whether the documents are to be produced. The minister has no power to refuse production. It is the house which is to determine the issue.

Mr. McIlraith: My point is this—

Mr. Speaker: Order. If the hon. member has a point of order I will be interested to hear what it is, but I have indicated my views on the matter.

Mr. McIlraith: My point of order has to do with whether this matter has been determined. It arises out of this. It will be seen from the form of the motion that it refers to a particular agreement which is clearly identified, and it is identified with an agreement referred to on motions on Tuesday, May 2, 1961. It will be seen that the precise language of the motion now before the house is in accordance with the precise language used in that item of business on motions on Tuesday, May 2. If Your Honour wishes any further reference to the identification of it—

Some hon. Members: Order.

Mr. McIlraith: —the minister said on that occasion, as reported at page 4205 of *Hansard*:

I am now pleased to report that a long term agreement has been signed. This long term agreement covers the period June 1, 1961 to December, 1963.

Mr. Speaker: Order. The hon. member is making the point, as I understand it, that the document, having been referred to before, must be produced and therefore the minister has no power to refuse production. But I think the hon. member has misconceived his rights under the rules and, if I may say so, if he felt the document, when referred to, ought to have been produced he should then have required its production. The issue before the house now is not the right of the minister to withhold or produce, but whether the house will order him to produce the document. Therefore to my mind the point which the hon. member makes is immaterial and is not properly taken at this time.

Mr. McIlraith: Mr. Speaker, certainly I have no quarrel with what you have said, except that it has not fully dealt with the point of order that I was seeking to raise, because it has anticipated the point of order

[Mr. Speaker.]

in part. My point does arise out of the obligation of a minister of the crown to produce the document. The reference on that point is contained in Beauchesne, fourth edition, at page 134, citation 159, subparagraph (2), which reads:

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. This restraint is similar to the rule of evidence in courts of law, which prevent counsel from citing documents which have not been produced in evidence. The principle is so reasonable that it has not been contested; and when the objection has been made in time, it has been generally acquiesced in.

My point is that the minister determined this matter by his action on Tuesday, May 2, on motions. It having been determined by his action then, to which no objection was taken at that time, it is not now open to the house to refuse it and what is before the house is a mere formality.

Mr. Speaker: I have heard the hon. member out but, as I rather anticipated when he began, what is now before the house is a motion which is not debatable unless it is deferred for debate under the rules. The motion prays that His Excellency the Governor General will cause to be laid before this house a copy of a certain agreement. That is the only issue before the house. The minister has indicated that he is opposed to the motion, but the matter still falls for the decision of the house. Accordingly I shall put the question.

The house divided on the motion (Mr. McIlraith) which was negatived on the following division:

YEAS

Messrs:

Argue	Macnaughton
Badanal	McIlraith
Batten	McMillan
Benidickson	Martin (Essex East)
Boulanger	Martin (Timmins)
Cardin	Meunier
Carter	Mitchell
Clermont	Nixon
Denis	Pearson
Deschatelets	Peters
Dumas	Pickersgill
Eudes	Pitman
Fisher	Racine
Forgie	Ratelle
Garland	Richard (Ottawa East)
Granger	Richard (St. Maurice- Laféche)
Habel	
Herridge	Roberge
Howard	Robichaud
LaMarsh, Miss	Tardif
Leduc	Tucker
Lessard	Winch—44.
Loiselle	

NAYS

Messrs:

Aiken	Allmark
Allard	Anderson