

*Motions for Papers*

his reasons for refusing, the minister himself might ask to have the motion transferred to notices of motions in order to be able to say those words. However, that has not been the practice. On these non-debatable motions ministers have been allowed to explain why they were refusing the production of papers and, as I say, I am restricted by the requirements of standing order 51.

**Mr. Diefenbaker:** Could I rise on a point of order?

**Mr. Speaker:** Yes.

**Mr. Diefenbaker:** My hon. friend says that the document is a privileged one.

**Mr. Marler:** I did not say the document was. I said that such correspondence has always been looked upon as privileged.

**Mr. Diefenbaker:** I rise on a point of order on the basis of authorities which indicate that these letters are not privileged. I have not asked for documents in the possession of the Canadian National Railways. I have asked for the production of the documents in the hands of the government. I am not going into the rule and the different citations on the subject, but they are to the effect that the rule of non-production of railway documents and the like applies only because of the fact that the documents are not in the possession of any department of government. Therefore when my hon. friend says that it is not in the public interest my submission is that such a doctrine cannot apply except when the security of the state is challenged or where a matter arises which, in the interests of security, should be denied to the house. Therefore I wish to press the motion.

**Mr. Marler:** Speaking on the point of order, I did not say at any time during my remarks this afternoon that this was a matter of public interest. All I said was that correspondence between the minister, officers and officials of the department and Canadian National Railways had always been looked upon as privileged correspondence.

**Mr. Fulton:** Speaking on the point of order, my understanding is that when that ruling was first laid down it was at a time when the Right Hon. Arthur Meighen was prime minister, and he took the position as the responsible prime minister of the day that these documents were not producible because they were not in the possession of the government. I submit to Your Honour that it is through a misapprehension of the position taken by the prime minister of that day that the practice now followed by the minister has grown up

of stating baldly and sweepingly that correspondence with Canadian National Railways is in the class of privileged documents. That was not the point made by the prime minister in 1921, and his position will be found at page 1004 of *Hansard* of that year. He went into the matter at some length.

He took the position then that documents or correspondence in the possession of the railways obviously would not be producible by the government and that therefore no motion for their production could be brought in the house. As the hon. member for Prince Albert has pointed out, his motion calls for copies of the letters from the government to the railways, which obviously must be in the possession of the government, and what we are asking now is that the government produce those documents. Since the minister himself has said just now that he does not suggest that they be refused on the ground that they are privileged documents—

**Mr. Martin:** He never said that.

**Mr. Fulton:**—then I suggest that he comply with the order. I would also refer Your Honour and the house to a citation in the fourth edition of Bourinot which is not exactly in point but is very close to the point under discussion. It is found at page 253 and is cited with approval by Bourinot at the bottom of that page. He is discussing the question of producing documents and the grounds upon which they may from time to time be refused. He says:

And on a later occasion it was declared by Sir Robert Peel that "where parliament has given peculiar privileges to any body of men, as, for example, banks or railway companies, it has a right to ask that body for information upon points which it deems necessary for the public advantage to have generally understood."

It goes on, and I want to place the whole thing on record so that I will not be under the suspicion of having quoted only a part of it. It continues:

The point to be aimed at in such inquiries, he considered to be "that while you extract all the information the public require to have, you should, at the same time, avoid all vexatious interference in the details of the business of the respective undertakings."

I suggest to you, sir, that it is not open to the minister to suggest that the request for the production of copies of these letters, seeking information with regard to the managerial agreement between Canadian National Railways and the Hilton Hotels Corporation, which information is in the possession of the government, can be regarded as vexatious interference but rather that it is merely parliament asking the government, with respect to this correspondence with the railway, for