

*Privilege—Mr. McKinnon*

specific problems involved, and then he can draw valid conclusions.

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[English]

**PRIVILEGE**

MR. MCKINNON—MOVE OF RCMP HEADQUARTERS "E"  
DIVISION—RULING BY MADAM SPEAKER

**Madam Speaker:** I would now like to rule on the question of privilege that was raised on June 16 by the hon. member for Victoria (Mr. McKinnon).

The hon. member set out the facts of the case with reference to Notice of Motion for the Production of Papers No. 51, and he alleged that the return to the order tabled on June 3, 1981, could not be considered to be "all letters, papers and studies concerning the move of RCMP Headquarters".

The practice in the matter of returns to such notices of motions for the production of papers was enunciated 20 years ago by one of my predecessors, Hon. Speaker Michener, when he pointed out:

—there has been a well recognized practice established in the House that a minister, who does not wish to be bound by an unqualified order of the House to produce documents which he does not propose to produce or does not wish to produce for some recognized reason of public policy, may rise and state his objection so that his objection will be a matter of record. This statement is, to some extent, a protection of the minister against the unqualified order of the House calling upon him to produce the documents mentioned. It is a practice which has commended itself to the House and which has been well established. Whatever the significance of such a statement may be . . . it is an established practice . . . when these orders are passed by the House they are noted in *Votes and Proceedings* without any reference to the reservation made by the minister. He is, therefore, confronted with an order of the House in unqualified terms if he has not risen in his place to claim that certain documents are privileged as interdepartmental communications, confidential documents, private papers or whatever good reason there is, in the public interest, for not calling upon the minister to produce the documents. He might very properly be said to be in contempt of the House if this reservation were not noted.

I quote from *Journals*, February 27, 1961.

The only change that seems to have been made in this practice is that the parliamentary secretary rather than the minister now makes the reservation concerning confidentiality or restrictions on certain documents. The reservation is nevertheless made, and the House also accepted this reservation in the usual way. Accordingly, the order of the House on June 3 last must be read subject to the customary reservations in respect of confidential documents.

The expression "confidential documents" has never been defined for this purpose and I do not think it would be proper for the Speaker to attempt to do that. Furthermore, while the government, when preparing a return, may govern itself by the principles it tabled in 1973 and which were set out in citation 390 of *Beauchesne's* fifth edition, the House has not adopted these principles, and in any event it seems to me that it would still be up to the government to decide whether any "letters, papers and studies" were of a confidential nature.

Accordingly, while the hon. member may have a complaint about how the expression "confidential documents" has been

interpreted by the government in this return to his motion for papers, this does not constitute a question of privilege because, according to the practice of the House, a proper return was made to hon. members' motions for the production of papers.

Hon. members might also be reminded that, in connection with practice and custom, the distinguished author Redlich in his work "The Procedure of the House of Commons" pointed out the following:

—the Journals are by no means the only authentic sources of information as to what has been established by custom. A large part of what concerns procedure is never recorded in them; for not unfrequently usages have been formed and long observed without giving rise to any definite decision of the House or the Speaker, which would constitute a precedent. Long-continued practice, moreover, is not always required for the creation of customs in procedure. In all such cases the only proof of a customary rule is the actual practice adopted, it being, of course, always in the last resort a matter purely for the decision of the House itself whether it accepts its customs as binding or not.

Therefore, in accordance with the foregoing, I cannot find a *prima facie* case of breach of privilege in the question raised by the hon. member for Victoria.

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[Translation]

**BUSINESS OF THE HOUSE****WEEKLY STATEMENT**

**Mr. Pinard:** Madam Speaker, I thank you for recognizing me. I did send you a note in this regard, but I thought that it would be more courteous to let the House Leader of the Progressive Conservative party ask me the usual question concerning the business of the House before we went on to questions of privilege.

[English]

**Mr. Baker (Nepean-Carleton):** Madam Speaker, with respect to House business, we know what we are dealing with today and tonight, but would the minister be in a position to designate the business for next week, and would he designate an allotted day? I think there is one more day in the supply period. If he would do that I would be very grateful.

**Mr. Pinard:** Madam Speaker, as everybody knows, we will be voting tonight. The bells will start ringing at 9 p.m. tonight until 9.15. Tomorrow we will have third reading of the same bill, C-57. There is an agreement among representatives of the parties that any vote required tomorrow will be deferred until next week. I suggest it be deferred until next Monday night at 9.45. If the House leaders agree I would appreciate confirmation in the next few seconds.

In so far as the business for next week is concerned, I wish to designate next Friday, June 26, as the last allotted day. Monday we will try to achieve what we failed to achieve yesterday, and that is to deal with three non-controversial bills, S-10, C-66 and S-19, in that order.

Following that, and if there is agreement—and we have had some representations made in the House on this subject—we