

Point of Order—Mr. Nielsen

There is one further point on which I am sure you will be advised by your officials, and that is that Subsection (6) also uses the phrase "official document". One must ask oneself, before coming to a rational conclusion on this submission, whether or not this letter was an official document. I simply want to refer you in this regard to a citation from the most recent edition of *Beauchesne*, 327(1), under the heading "Documents Cited". It states:

A Minister of the Crown is not at liberty to read or quote from a dispatch or other state paper not before the House, unless he be prepared to lay it upon the Table.

The following is the important phrase in this quotation:

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; and when the objection has been made in time, it has been generally acquiesced in.

I am not going to go into the reluctance of the minister responsible for the status of women in respect of his shenanigans regarding the tabling of an affidavit that he used repeatedly to support arguments he made during that debate, but from that last submission I want to go to my final reference to you which is contained in the *Journals* of this House for Tuesday, February 22, 1972. This deals with whether or not we are considering here a public or a private document, because this has a bearing on the decision which I am calling upon the Chair to make.

At page 15 of *Journals* for that date the then Speaker said this:

I think the argument put forward by the hon. member for Calgary North is valid. The rule is clear enough. If a document is quoted in debate it has to be tabled. It was suggested by the President of the Privy Council that perhaps we are not dealing here with what is termed a state document.

I am sure that argument may well be made. The quotation continues:

This has always been the difficulty in the past—to determine what is a public document and what is a private document.

That is a decision the Chair will have to make in respect of the obligation to table this particular letter—is it a public document or is it a private letter? The Speaker went on to state:

My thought is that if a letter, even though it might have been written originally as a private letter, becomes part of the record of a department it becomes at that point a public document and a state paper.

There is no question about how the Speaker of that day dealt specifically with the nature of a letter which was required to be produced. The Speaker went on:

It seems to me that the documents to which the minister has referred are part of the official penitentiary files—

In this case this particular letter is part of the files of either the Secretary of State for External Affairs or of the Prime Minister.

The Speaker went on to say:

—part of the official penitentiary files, or documents within the possession of the officials of the department, and I would think that any document of this kind which is cited by the minister ought to be tabled in the House.

It does not make any difference whether it is in the minister's possession or that of his officials.

I ask you to conclude from subsection (6) of citation 327, which I have quoted for your assistance, that this document, having been cited, and it being an official document, in debate, should be tabled by the minister, and in my submission the Chair is obliged to enforce that parliamentary practice.

In respect of Subsection (5) of Citation 327 of *Beauchesne*, and I emphasize this in my final remarks and submission to you, it indicates that:

To be cited, a document must be quoted or specifically used to influence debate.

In my submission you work back from (6) to (5) of Citation 327, and there is no question that this letter was used to influence debate, that it was therefore cited and, therefore, need not be quoted from. I know that is the argument I will get from the government House leader, but it does not have to be quoted from.

I am not submitting that mere reference is sufficient to require its tabling, but I am saying to you, if you do not accept that lesser of the two arguments, once the document has been cited and once it has been used to influence debate, then it is deemed to have been cited and thereby falls within both these subsections and the Chair is obliged, in my submission, to require its tabling.

Madam Speaker: I have listened very carefully to the arguments and the citations from *Beauchesne* to support those arguments, but I do think I will have to look at the form in which the debate took place yesterday to determine the fact, as alleged by the hon. member, that it was specifically used to influence debate. At this moment in time I do not feel I can make a proper judgment and I would, therefore, like to take the matter under advisement.

Mr. Nielsen: Madam Speaker, may I suggest that it was not just yesterday's debate, but also the debate on Monday. You stated you would look at the debates for yesterday when reviewing the matter, but I suggest our proceedings of Monday last are very important for consideration as well.

Madam Speaker: I will take that into consideration as well.

Mr. D. M. Collette (Parliamentary Secretary to President of the Privy Council): Madam Speaker, I had hoped you would have invited submissions to support this case and, if it is your pleasure, I would propose to try to counter the arguments put forward by the hon. member for Yukon (Mr. Nielsen).

This is an interesting argument and I am sure you will deliberate on it, Madam Speaker, but I believe on three of four counts the hon. member for Yukon is wrong. I suppose I could deal with Paragraph (6) of Citation 327 which was quoted.

● (1520)

The hon. member for Yukon talked about the minister's citing or quoting an official document in debate. To my knowledge—and I have had a chance to look only in a cursory