

*Correspondence on Surcharges*

attorney general. The hon. member contends that, having done so, he is obliged under the rules to produce the legal opinion, having already gone so far as he has in the identification I have just mentioned.

I suggest that the argument of the hon. member for Essex East would, on the face of it, have great merit, as indeed does everything he says in this House of Commons. As I say, he has made out something of a prima facie case, at which he is very skilful. So, I looked up Beauchesne's parliamentary rules and forms, the fourth edition, to find the citation to support the hon. member's argument. I find at page 134, citation 159, subsection (2), the following:

A minister of the crown is not at liberty to read or quote from a dispatch or other 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;—

Now, sir, I then refer to the exchanges which took place in this house between the minister, the hon. member for Essex East and the hon. member for Winnipeg North Centre. I found that the hon. member for Essex East was guilty of a grave error, I am sure inadvertently but nevertheless a grave error. The Minister of Justice at no time quoted from the legal opinion of the deputy minister or anybody else. What he did do was give the result of that opinion, an opinion that said certain surcharges were lawful; but at no time did he cite from the opinion or go into the details of that opinion. In short he was saying what the result of the opinion was, rather than exposing any part of that opinion in parliament. Therefore I say this particular argument of the hon. member for Essex East falls to the ground, and it seems to be really the strongest part of his whole argument.

There was also the suggestion of the hon. member for Winnipeg North Centre (Mr. Knowles) that this whole matter be referred to the Supreme Court of Canada for opinion. That was the suggestion made in this debate. Perhaps I am out of order in referring to it, but if so I imagine he would be equally out of order making such a suggestion, which is to be found at page 1432 of *Hansard* for November 9, 1962; and I suggest that if he can make an argument such as that, then surely somebody should be allowed to answer it and say why this sort of step would not be proper. I do so say; because there has been no suggestion here from any responsible source that the opinion given with regard

to the legality of the surcharges is in question, except from certain sources, motivated by political reasons, within the chamber itself.

I also share the views put forward so ably a few moments ago by the hon. member for Edmonton-Strathcona (Mr. Nugent), and I shall not cover that ground except to say I fully agree with his reasoning, that a civil servant should not be dragged into the political arena, which would be the effect of the motion of the hon. member for Essex East if it should be carried.

Finally, in paying tribute to the interesting speeches I have heard in this debate I would like to refer particularly to the hon. member for Simcoe North (Mr. Smith). He brought a tremendous amount of scholarship into this field and he completely punctured the prima facie case that had been placed before us by the hon. member for Essex East and the hon. member for Bonavista-Twillingate (Mr. Pickersgill).

The hon. member for Simcoe North showed that their arguments were extracts and quotations of contents from previous debates in the house, and that in short their arguments really dealt only cursorily with what had gone before and did not show the precedents which should guide a responsible House of Commons. I am glad to see the results of such burning of midnight oil, because surely the remarks of the hon. member for Simcoe North have helped to set this House of Commons on the straight path as to the circumstances under which documents such as this should be produced. For these reasons I would reject the notice of motion proposed by the hon. member for Essex East.

*(Translation):*

**Mr. Gilles Gregoire (Lapointe):** Mr. Speaker, only a few words on this motion before the vote is taken. First, since this is the last day of the year, I want to take the opportunity of congratulating you on all the patience and firmness you showed for three months in this house.

**Mr. Speaker:** I am sorry, but perhaps the hon. member remembers that he has already spoken on this motion and since the Speaker is in the chair, the rules do not permit him to hear the hon. member again.

*(Text):*

**Mr. Bell (Saint John-Albert):** Mr. Speaker, I am sure there would be unanimous consent to hear the hon. member for Lapointe on this very happy, festive evening.

**Some hon. Members:** No, no.