

Correspondence on Surcharges

of any question with which they are dealing. Certainly, it takes a long time to develop the judicial mind. It would have to be a very strong judicial mind in order to wipe out completely any thought of self, any thought of the possible effect of publicity in the newspapers, the possible effect on his colleagues and other departments if his opinions were to be broadcast to the public if he is proven to have chosen the wrong side; that the minister should have taken the advice of a junior member rather than the senior member.

I was much impressed by the speech of the hon. member for Winnipeg North Centre (Mr. Knowles). I am sure most of us will recall with what an impassioned voice he presented to the house the necessity for producing these papers. I am not sure he was exactly on the point before us, but I recall his speech dealt almost entirely with the subject of taxation and the rights of parliament. I have heard this same hon. member get up in this house on many, many occasions, but during the last two or three weeks he seemed to be trying to give us the impression he was the only one interested in the civil service in this country. I am surprised that the hon. member should have apparently overlooked completely the necessity for protecting civil servants from this sort of adverse publicity, from this sort of criticism, both in this house and in the press.

Mr. Speaker: Order; I must inform the hon. member that the time allotted to him has expired.

Mr. R. J. McCleave (Halifax): Did the hon. member ask me if I had already spoken in this debate? I have not, Mr. Speaker.

An hon. Member: It only seems like that.

Mr. McCleave: I would hate to appear in this debate this evening, with the spirit of Christmas upon the house, and have my hon. friend from Essex East liken me to Ebenezer Scrooge by denying to him the pleasures of all the legal opinions now in the government files concerning surcharges, et cetera. I am sorry I must do so. If the hon. member really wants legal interpretations by Mr. Dreidger, he should go to that gentleman's book on interpretation and he will find that, among other things, the author points out the distinction between the words "shall" and "may".

One of the advantages of taking part in a debate such as this where very fundamental issues are concerned is to hear the fine contributions from those in this house with legal backgrounds, starting with the hon. member for Essex East (Mr. Martin), a leader at the bar; the hon. member for Bonavista-Twillington (Mr. Pickersgill) who but for heavy

[Mr. Nugent.]

duties elsewhere would have continued on to the bar, and the hon. member for Winnipeg North Centre (Mr. Knowles) who has become a sort of latter day Philadelphia lawyer. All these gentlemen have looked at the surcharges and have said that in their opinion these are illegal. Nobody else in Canada seems to share their opinion, but these gentlemen say the surcharges are illegal.

Mr. Knowles: Nobody else?

Mr. McCleave: Nobody else has come around to that opinion, or perhaps if they have their voices are equally in the wilderness. The Canadian importers association has not tested this measure in the courts.

Mr. Speaker: I do not think we are discussing the legality or the illegality of the surcharges. We are discussing whether certain documents shall be produced. There is a very narrow point of debate. I would ask hon. members to observe the strict rules of relevance in this regard.

Mr. McCleave: With respect, Mr. Speaker, may I understand clearly the limits of the debate? I understood there were two points at issue. The first one was whether it was proper to produce these things in parliament. If I am correct in assuming that this is one of the questions then, I would suggest with all respect that it would be equally proper to argue whether it be in the public interest to produce these documents. This was one of the points I was trying to make.

Mr. Speaker: With greatest respect to the hon. member, they are identical points. They are different versions of the same thing. One cannot go into the illegality or otherwise of the surcharges; one can go only into the question of the production of papers.

Mr. McCleave: I thank Your Honour for pointing out that I am really on one track, although I thought I might be traversing two. One of the strong points made by the hon. member for Essex East in his argument is to be found in *Hansard* of November 9, page 1427. The hon. member is arguing that the Minister of Justice should produce the opinion because the hon. member said the minister has quoted from that opinion.

In other words, what the hon. member for Essex East is arguing analogically, Mr. Speaker, is that the exchanges between the Minister of Justice, the hon. member for Winnipeg North Centre and the hon. member for Essex East—this reference is to even earlier questions and answers on orders of the day—put the minister in exactly the position envisaged by May, because the minister spoke of a legal opinion, and did identify the source of that legal opinion, the deputy