

*Post Office*

**Mr. Roger Young (Parliamentary Secretary to Minister of Justice):** Mr. Speaker, I will leave it to my hon. colleagues to point out some of the necessities for raising the postal rates and some of the requirements and conditions which existed at the time.

At the outset I would like to say to the hon. member for Winnipeg North Centre (Mr. Knowles), who has just spoken, that differences in legal opinions are what keep lawyers in business, and those same differences in legal opinions are what keep us as members of parliament at work trying to keep lawyers in business.

The hon. member for Brandon-Souris (Mr. Dinsdale) called the increase an illegal one. I do not know upon what opinion or advice he relies, but I do not share that opinion. I do not believe that the committee report in which we concurred last week claimed that the increase was illegal. I think the words of the committee were to the effect that its members had grave doubts as to the validity of relying on the general power in section 13 of the Financial Administration Act. The committee is entitled to its opinion or decision, but it is one thing to express grave doubts and another for the hon. member for Brandon-Souris to twist that and say that the increase was illegal. They are two quite different things.

The hon. member went on to say that everyone says the increase was illegal. I have not heard that. I should also point out that the concurrence of the House in that report does not affect the validity of those postal increases at all. The hon. member for Winnipeg North Centre read part of section 13(b) of the Financial Administration Act. He read through the "legalese", if I may put it that way, of the section. Perhaps I could read that section to hon. members without using as much legalese and try to put it into what might be considered somewhat plainer English. Section 13(b) of the Financial Administration Act refers to charges for services or use of facilities. It states that the governor in council, on the recommendation of the Treasury Board, notwithstanding the provisions of any act—and I would stress that—relating to that service or use, may authorize the appropriate minister to proscribe the fee or charge to be paid by the person to whom the service or the use of the facility is provided. On that basis, some legal advice was given.

● (1742)

Turning now to the reason we are debating this motion this afternoon, let me point out that it arises out of a request by the hon. member for Brandon-Souris last October 26 which reads as follows:

That an order of the House do issue for a copy of the legal opinion concerning the legality of the latest postal rate increases, given by the Department of Justice to the Post Office Department.

At that time my answer to the hon. member, on behalf of the minister, was that legal advice provided by the law officers of the Crown on a matter of state policy falls within the class of confidential documents, and on that basis I asked if he would withdraw his motion. He chose not to withdraw the

[Mr. Knowles (Winnipeg North Centre).]

motion, and that is the reason we are here debating the subject matter this afternoon.

I should like to expand upon the answer that was given to the hon. member for Brandon-Souris at that time. Advice given to ministers by law officers of the Crown on government policy matters has traditionally been regarded as confidential. On March 15, 1973 the then president of the privy council, pursuant to Standing Order 41(2), tabled in the House of Commons an outline of the government's position with regard to notices of motion for the production of papers. That outline was printed as an appendix to *Hansard* of that date and appears at page 2288. It reads in part as follows, under the heading "General Principle":

To enable members of parliament to secure factual information about the operations of government to carry out their parliamentary duties and to make public as much factual information as possible consistent with effective administration, the protection of the security of the state, rights to privacy and other such matters, government papers, documents and consultant reports should be produced on notice of motion for the production of papers unless falling within the categories outlined below in which case an exemption is to be claimed from production.

Immediately following, under the heading "Exemptions" is found the following:

The following criteria are to be applied in determining if government papers or documents should be exempt from production:

1. Legal opinion or advice provided for the use of the government.

The hon. member for Brandon-Souris and the hon. member for Winnipeg North Centre are well aware—they have been in the House a long time and they know—of the long standing procedure and precedents which the government is following in giving the answer it first gave to the request for the order to the hon. member for Brandon-Souris, and I know the hon. members will understand the point I am making now with regard to in-house legal opinions held by the government and given by officers of the Crown to ministers.

Were documents containing legal opinions or advice subject to compulsory disclosure, the free expression or candour that is essential to the proper conduct of the affairs of the government would be seriously curtailed and the performance of the duties of the advising ministers of the Crown on questions of law would be inhibited.

If one looked for a moment to the private world outside this chamber, one would see that there has always existed a privileged relationship between a solicitor and a client, and those legal communications, solicitor-client communications, have always been accepted as being sacrosanct. We are in an analogous situation but in a government in-house circumstance. That advice which is being requested to be brought forward publicly is advice from public servants on which ministers of the Crown rely, and it would be a serious curtailment of the abilities of public service employees to fully express themselves when assisting the government to carry out the duties and functions of various departments.

The Department of Justice was consulted almost two years before the rates were increased and the opinion was that it was legal to increase the postal rates by virtue of section 13 of the Financial Administration Act, to which I referred earlier. I am