

Correspondence on Surcharges

This motion is to be distinguished from those in which purely factual or statistical material is requested. As I read this motion, it asks for the most intimate details of everything that would go into the consideration the crown gave in arriving not only at the order in council but at what items might be affected by the surcharge. I wonder whether the hon. member would really seriously ask members of this House of Commons to require the government to produce the opinion of every civil servant who might have had a hand in arriving at the list of articles that should be subject to surcharge. I wonder whether he would really wish to have every written note of every discussion between various members in the department with regard to whether a certain item should or should not come within the list to be subject to this surcharge.

An hon. Member: We have heard that before.

Mr. Nugent: It would seem to me to be a little bit strange that a member having experience, especially cabinet experience which the hon. member for Essex East has had—

An hon. Member: What experience?

Mr. Nugent: Especially cabinet experience. It seems strange to me that he should have brought forward a motion such as this one, when he knows what pressures are brought to bear on government and indeed on private members of parliament and on various servants of the crown in connection with each and every item proposed. I know we all have been subject to letters and personal interviews and have heard complaints about this or that item on the tariff list. I know we are all aware of the fact that there are, day in and day out, countless requests for exemptions from tariff duties for various reasons with regard to various items. It seems strange to me that we should be asking the government to produce in this house every argument which was brought in on both sides of the question and which entered into the government's decision, so that those people who are primarily interested in a particular item, those private individuals who have the most at stake in trying to change the mind of the government, should be provided with the ammunition with which to attack the government right from the government's own files.

It seems to me that not only is this course going to subject the civil servant to the necessity of proving his opinion to his own superiors in his own department, but it is going to pit civil servant against civil servant within the department. If any value is to be gained from the advice of people who are charged with the duty of giving the minister

responsible advice in connection with these problems, surely we must do what we can to make sure that his opinion is respected. We must make sure that the only thing with which he is obliged to concern himself is the strength of that opinion, the effect it is going to have on that particular item or product under consideration and whether or not it is a good idea to have a surcharge on that particular item. Surely this is the basis of the advice we ask the civil servants for, not the question of who has the most industrialists clamouring on his side or which civil servant, once the argument has become public, has the most newspapers backing up his side of the argument. I suggest that I am not going too far when I say that this is the logical outcome of the complete revelation of every item in the files going into this decision.

Mr. Chairman, this is the extent of the motion before us. Up to this time I have dealt only with the ordinary civil servant and the ordinary item of a tariff surcharge. But here we are especially interested in the legal opinion. I suggest that matter becomes even more delicate when it is a legal opinion which is to be attacked. Certainly the accountant or the statistician is able to compile enough facts and figures in order to be able to show a rather fair brand of proof on one side or the other of an argument as to the economic effect. You can reach a degree of certainty and be able to some extent at least to discount the opinion or the fallibility of the person who is interpreting those figures. However, when we come into the realm of the law, may I say that any lawyer in the house knows that legal opinion has always in it an element of doubt which does not exist to the same extent with regard to mathematical questions. There must therefore be perhaps more hesitation in giving it. There must be more care. There is also undoubtedly on the part of the legal officer giving the opinion a little bit more worry since, after all, it is not provable as such. It is only his own reputation, his own character and his own knowledge of the law which sustains it.

If then we are to ask these people to give their honest opinion, I suggest that the least we can do is to give them protection from argument in public. Certainly no legal officer wishes to be subjected in the newspapers of the country or in this House of Commons to a running critique of the effectiveness of his work from day to day, as to how many cases he has won and lost or how many times his opinion was not taken by the department. I suggest that we must do all we can to make sure that the legal officers are encouraged to use as much discretion and as much care as they can use and must do all we can to remove all thought of the effect on themselves