

Post Office

word of the then prime minister but also the word of the then minister of finance.

● (1732)

Mr. Dinsdale: We have learned from experience, Stanley.

Mr. Knowles (Winnipeg North Centre): Just a minute. My friend is not going to get out of this by this kind of thing. The prime minister of the day and the then minister of finance, the late Hon. George Nowlan, father of an hon. member who is still with us, said that they had the ruling of the Department of Justice that it did not need be tabled, that the matter did not need to be referred to the courts and that it was perfectly all right. We fought that through the 1962-63 session and got nowhere. In particular, we got nowhere with a motion like this one asking that the opinion be tabled. In 1963 there was an election, and things got turned around. When it was all over, the Tories were on the opposition side and the Liberals on the government side.

Hon. members will remember that in the 1962-63 session the Liberals said that this kind of order in council was all wrong and should not have been allowed. In the meantime, some big companies in this country which were affected rather severely by those 15 per cent tariff changes took the matter to the courts, and it became obvious that they had a good case, that they were going to win and that it would be clear that the order in council was *ultra vires* the rights of the cabinet.

So what did the Liberal government do with this *faux pas* that the Tory government had made the year before? It got a ruling from the Department of Justice, the same Department of Justice with some of the same senior public servants in it. They were not fired back and forth the way it is being talked about today. They got a ruling from the same people saying that the order in council which was passed in June of 1962 was invalid. We tried late in 1963, to get out of the Liberals of that day a copy of that opinion of the Department of Justice, but we could not get it from them either.

I am afraid this has some effect on my respect for Department of Justice rulings. Any government can get from the Department of Justice any ruling it wants because in 1963 the Tories got the ruling that its order in council was valid. In late 1963 or on into 1964 the Liberals got from the same Department of Justice the ruling that that order in council had been invalid. What did the Liberals do to take care of the situation? I would have thought, since they were so opposed to what had been done, that they would cancel the whole thing and rebate the increased duties; but no, they brought in a special act of parliament to validate the order in council which they themselves had argued the year before was invalid. As a member of the third party my reaction in both cases, whichever party was in power, was to try to get the opinion of the Department of Justice. But we were not able to get it, either when it said the order in council was valid or when it said it was invalid.

My friend the hon. member for Brandon-Souris (Mr. Dinsdale) can relax a little bit now. We have got over the history of the past. We should learn something from that history. What

we should learn from that history is that these things ought not to keep secret.

I think it was wrong for the Tories in 1963 not to let us see what the Department of Justice said. I think it was wrong for the Liberals in 1963 or 1964 not to let us see what the Department of Justice said the other way.

Mr. Dinsdale: We need a freedom of information act.

Mr. Knowles (Winnipeg North Centre): I think it is wrong for the present government to refuse to let us see what the Department of Justice has said regarding the action of raising the postage rate from 12 cents to 14 cents on the basis of an order in council passed under the Financial Administration Act. I am satisfied that the courts would find this invalid, just as they would have found that order of 1962 to be invalid.

However, that is a long way down the road, and how could we ever rebate to the people of Canada the extra postage they have paid? It just cannot be done. But in the meantime the issue today is not so much the history I have recited and not so much all of the faults and shortcomings of the Post Office Department which my hon. friend has recited, but our right to know the basis on which these decisions are made. My guess is that the reason the government does not want to table this opinion of the Department of Justice is that every lawyer in the place would be shocked by it. Any Department of Justice official who said that it is right under section 13 of the Financial Administration Act to raise postage rates by order in council would clearly be laughed at.

If I can carry my history forward a little and be speculative—back in that other instance there was a change of government—I will go this far and say that if there happened to be a change of government in the election about to be held, and if the Conservatives formed a government, they could go to the Department of Justice saying “We did not like that ruling,” and get from the Department of Justice a ruling reversing the one obtained by the Liberal government. That is all the more reason why we should have these things brought out and put on the table so that we know what is going on behind the scenes.

The hon. member for Brandon-Souris made reference to the hon. member for Peace River (Mr. Baldwin) and his campaign for freedom of information and the right to know. He is absolutely right, and that is really what is at stake here. I agree that related to all this is the whole question of postal service, what is happening to that service, whether it was right to raise the postage rate and so forth, but the fundamental issue is the right of parliament to say whether or not it should be raised.

When the rights of parliament are set aside by a ludicrous ruling from the Department of Justice, an opinion which says that the government can act without coming before parliament, we ought to have all the facts, and therefore I strongly support this motion. I feel that the stupid opinion which the Department of Justice has given in this matter should see the light of day, and the passing of this motion would bring it before us. That is why I support the motion.