

*Correspondence on Surcharges*

the government should allow it to be determined tonight. Is the government afraid it will be beaten?

**Mr. Speaker:** While the hon. member may be free to raise a certain point of order, some of his remarks were not at all germane to the point of order. As far as the question of whether debate may be tedious or repetitious is concerned, the Chair is not going to be dragged into any comment on that subject, because if we were to line up all those who were guilty of that I am afraid this chamber would be somewhat empty.

**Mr. Bell (Saint John-Albert):** When this matter of tediousness was mentioned I was about to quote from the hon. member for Bonavista-Twillingate, so there is no doubt about it; it would have been tedious and I probably was out of order.

**Mr. Pickersgill:** I recognized that myself.

**Mr. Bell (Saint John-Albert):** To continue my remarks. I merely wish to say that this question of confidentiality is important in order to get the frank opinions of civil servants in these various documents and reports which are made available interdepartmentally. I think that has been proved and, probably there is little disagreement about that among all members of the house.

However, I turn now to deal with the second matter which is of considerable interest to lawyers and all who take these questions seriously. I wish to refer to the subject of legal opinions. I have some quotations to put on record in this regard. I will begin by quoting from Bourinot. This is from page 253 of the fourth edition:

A sound rule generally observed by the house is that proceedings before a court of justice are not given except for public purposes and still more is this the rule when a case is pending.

Another opinion which, possibly, is more germane, is from *Campion*, the third edition, at page 197. I am sorry the hon. member for Essex East, who is apparently so interested in this matter, did not have the time to look up these quotations.

**Mr. Martin (Essex East):** They have been put on the record ten times already in this debate.

**Mr. Bell (Saint John-Albert):** I am not certain that this one from *Campion* has been quoted. This is in respect of law officers' opinions:

These opinions, being confidential, are usually not laid on the table or cited in debate, and their production cannot be demanded as of right but a minister is not debarred from citing them if he chooses.

This is very destructive, if I may say so, of the contentions of the hon. member for Essex East.

In the course of my research I came across an interesting debate which took place in 1947. I know this is not being referred to in any great detail in connection with this motion. This relates to some remarks which were made by the then hon. member for Broadview, the irrepressible Tommy Church. I mention this because not only does it have a very pertinent relation to the debate but it also shows the great clairvoyance which that hon. member possessed with regard to this question becoming a future issue. No doubt some hon. members will remember this debate. Perhaps the hon. member for Bonavista-Twillingate, though he was not in this chamber, was in the back room and will recall the discussion which went on at that time. It was the famous debate on the emergency powers.

**Mr. Pickersgill:** What page is this?

**Mr. Bell (Saint John-Albert):** Page 1790 of 1947 *Hansard*, volume II. I am not prepared this evening to discuss in a very informed way this emergency powers debate, but I do want to quote from the speech made by the then member for Broadview, who as everyone knows was succeeded by the Minister of Trade and Commerce (Mr. Hees), who has done such a job in supporting Canada's interests. However, to get back to the former hon. member's criticism, he said, as reported on page 1790:

I have great admiration for the minister in many ways. In 1924 I asked the Minister of Justice a question when he got up to give an opinion on a matter concerning the Toronto hydro electric commission which was before the privy council and with which I had something to do on this side of the water. The minister was asked by the head of what was then called the progressives to give an opinion, and he gave that opinion. After he had spoken I called his attention to the fact that the Minister of Justice should not do what was done last Friday night.

That was with reference to the emergency powers debate.

It has been a rule since confederation that the Minister of Justice, who is the Attorney General of Canada, should not be asked to give a legal opinion. I raised this question in 1924 and his predecessor said that I was right.

**Mr. Knowles:** Would the hon. member permit a question?

**Mr. Bell (Saint John-Albert):** Yes.

**Mr. Knowles:** If the hon. member and his colleagues are so sure of the decision, would it not be reasonable to let the house come to a decision tonight?

**Mr. Bell (Saint John-Albert):** I think the house will still benefit by hearing my modest remarks. I want to say to the hon. member