

Correspondence on Surcharges

has any respect for parliament, any government which has any respect for parliament, is going to usurp—or, if the minister does not like that I will try to use an even more moderate word—is going to use the power to tax, which most of us think belongs exclusively to this parliament, surely he is going to want to be fortified to the greatest possible extent with the greatest possible authority.

If the deputy minister did in fact—and I am not questioning that he did—give such an opinion, surely this parliament is entitled to have that opinion when the government is claiming that it has the right to tax without any reference to parliament at all. That is the whole point in this particular case. It is unique; this situation has never happened before in the history of Canada, to my knowledge. Maybe I am wrong about that, because the Prime Minister did say this on July 1, 1960, in a speech filled with purple passages, to quote the hon. member for Peace River, who seems to think that purple passages are to be deplored—and we are indebted to the hon. member for York-Humber (Mr. Cowan) for recalling this to our memory—

I believe the hon. member for Laurier was a parliamentary assistant on the occasion when the rates on government annuities were unjustifiably increased by order in council. This is just one instance of a statute being amended or suspended by order in council. The hon. gentleman will recall, too, that he was a member of the cabinet when an order in council was passed which legalized taxation three months before parliament met on it. That is not going to happen any more. I also seem to recall that taxation was once imposed by a radio speech—

Mr. Speaker: Order. I think the hon. member will recognize the rather narrow confines of the debate in this regard. These have been referred to quite definitely by the hon. member for St. Lawrence-St. George (Mr. Turner) who cited the decisions of my predecessor to the effect that what is, in fact, the issue of this motion is not what is behind the documents, or what is their substance, but whether they should be produced or not. I think the hon. member will, on reflection, see he is going a little beyond that.

Mr. Pickersgill: Perhaps a little beyond, but not very far beyond, because what is in question here is whether a legal opinion should be produced with regard to taxation by order in council, something which the Prime Minister said only two years ago would never be done again. The fact that the Prime Minister solemnly assured this house that taxation by order in council would never happen again, as he did on July 1, 1960, seen in the light of what happened less than two years later when this was done on a scale which has never happened before, is surely

the soundest and most compelling argument for asking that the legal opinion saying there was some valid reason why the Prime Minister should have broken that solemn undertaking to parliament, should be produced. As I say, we were given a solemn assurance on July 1, 1960, that there was never again to be taxation by order in council. There has been.

Mr. Speaker: I think the hon. member is transgressing. We are concerned with the question of whether a legal opinion should be produced—a legal opinion on any subject, because I think the same principle would apply, if I might say so, to the production of a legal opinion on the price of peanuts in Timbuktu.

Mr. Pickersgill: I must respectfully differ from Your Honour. I would not argue that a legal opinion concerning the price of peanuts in Timbuktu, if, indeed, it would be competent for a legal adviser of the crown to give an opinion on such a ridiculous subject to the Minister of Justice—and I cannot think of any other minister who would ask for such an opinion—should be produced. In any case, it would not be likely that the opposition would ask for its production. I think there is a distinction to be drawn, if I may continue my argument as the hon. member for Peace River was permitted to do without interruption, between legal opinions in general and a legal opinion in a particular case. I think, for example, that a legal opinion on an administrative matter might be a very different thing from a legal opinion as to whether the government has the power to legislate and to tax.

That is the whole point of my argument. I am saying that this case is unique. We ought to be more jealous of the power to tax than of any other power we have in this house, and when that power is used by the government in what it claims is a legal fashion it is the compelling duty of a government responsible to this house to produce every scrap of evidence which it can produce to show it has acted legally. It should not resist the demand for the production of such evidence. I do not think I can put the matter more forcefully than that.

There is one other aspect of this question which I think some member of the government should clear up. It is important because, if the matter before us is determined, and I hope the house will be allowed to determine it, it would be my opinion that a vote on this issue does not represent a vote expressing confidence or want of confidence in the government. It would be merely a vote to assert the right of this house to control the government. That is all it would