

THE SENATE
STANDING COMMITTEE ON MISCELLANEOUS PRIVATE BILLS
EVIDENCE

OTTAWA, Thursday, December 5, 1963

The Standing Committee on Miscellaneous Private Bills, to which was referred Bill S-32, to amend the Marriage and Divorce Act, met this day at 11.30 a.m.

Senator PAUL H. BOUFFARD (*Chairman*) in the Chair.

The CHAIRMAN: Honourable senators, we have a quorum, and I think we should proceed. I have to say that this morning we expected to have before us Mr. Bedard of the Department of Justice to give us the department's opinion as to whether this bill is constitutional or not. Mr. Bedard has received directions from his deputy minister to the effect that the Department of Justice does not feel that an opinion should be given by it at the present time on this bill.

The directions are a little long, and I suggest that this memorandum be printed as an appendix to the committee's proceedings of this morning. However, the deputy minister, Mr. Driedger, says:

As I have indicated, however, there are situations where it would be quite proper and perhaps even desirable for officers of the Department of Justice to advise Parliamentary Committees. These are as follows:

1. Where a government bill is before a Committee, officers may appear to give such legal explanations of the bill or any of its provisions, as may be necessary, although it would not be proper to disclose to the Committee any advice that may have been given to the Government or a Department except with the approval of the appropriate Minister.

2. Where a legal opinion has been given to a Minister or Department and that opinion has been disclosed to a Parliamentary Committee by that Minister or Department, officers of the Department of Justice may appear to give such explanations of the opinion as may be required. It would, however, be a violation of confidence for an officer of the Department of Justice to disclose the fact that an opinion was given or the nature of that opinion.

3. Where a Parliamentary Committee has undertaken a legal study of a general nature—as for example capital punishment or the gaming laws—and has invited views, officers of the Department of Justice may appear and state views, if the Minister of Justice approves and the officer concerned is able to undertake such a task without interfering unduly with his official duties.

He concludes his letter by saying that this committee has not the qualifications mentioned in the letter, and consequently he instructs Mr. Bedard:

If you are summoned by the Committee, it will of course be your duty to appear, but in that event your only course can be to explain the situation as I have outlined it above.

So, the Department of Justice does not want to give an opinion.

(*For text of memorandum to Mr. R. Bedard from the Deputy Minister of Justice, see appendix "B"*).