

way the Department of Justice Act is worded, it is a job which puts an extremely heavy onus upon the Attorney General of Canada to perform his function in a neutral manner in various capacities. One of those capacities happens to be his role to supply legal advice to the House of Commons.

The reason this is so significant is that when we refer to the various comments made by previous attorneys general, either in Canada or in the United Kingdom, we find that this duty or role of trying to be neutral and to give an independent, unchallengeable advice to Parliament is a very, very important function.

For example, I refer to the functions of the attorney general of the United Kingdom. As I read into the record earlier, Section 5 of the Department of Justice Act makes the precedents of the United Kingdom applicable to the role of the Attorney General in Canada. I should like to refer to an article which was written by the Right Honourable Silkin, Q.C., MP, Attorney General for England. On page 154 of his article, he spoke about the English counterpart of the Attorney General of Canada. Mr. Silkin stated:

As an officer of the House of Commons, the Attorney General is often asked and customarily undertakes to give legal advice to Parliament, and in that capacity to take part in debates and to attend before committees of the House. In giving legal advice he owes a special duty to the House, separate and apart from his duty to the Crown, and in these matters he occupies a different position from an ordinary minister of the Crown.

I am attempting to outline what the Department of Justice Act sets out are certain duties of the Minister of Justice, but in Section 5 it incorporates all the duties and obligations which fall on an attorney general, in this case the Attorney General of Canada. Specifically it refers to the precedents which exist in the United Kingdom.

We are in a situation where Parliament should feel free to call on the Attorney General of Canada for advice on what is relevant concerning parliamentary activities. For example, those activities touch on various matters of procedure. Mr. Silkin specifically said that they touch on the duty to the House, that is, the duty of the Attorney General of Canada to the House does not extend beyond the giving of legal advice in relation to the Constitution of and conduct of proceedings in the House, the conduct and discipline of members, and the effect of proposed legislation.

The problem before us is that in question period today, the Right Hon. Leader of the Opposition (Mr. Clark) put certain questions to the Attorney General of Canada as to what was his attitude with regard to the legal status of the constitutional resolution before the House and which may be debated later this week or some time during April. The Attorney General said that essentially it was for this House of Commons to legislate and for the courts to adjudicate. In that answer, I felt, was confirmation of the notice I have given. My notice was based partly on what I had read about what the Attorney General of Canada did and said in the United Kingdom.

As I read what he did and said in the United Kingdom, I felt that he could no longer be held out as an impartial person who could be called upon to advise us on our legal rights as

*Privilege—Mr. Stevens*

members of the House. In short, he seemed to take the role of an advocate in the United Kingdom, an advocate of the resolution he was hoping would be passed by this House and subsequently by Westminster. If that is so, we must think of the consequence.

As we read the various judgments which have already been rendered in the court of appeal of Manitoba, we can see the significance of what perhaps the Attorney General of Canada has done. For example, I draw Your Honour's attention to the opening sentence—this is not buried in the judgment—of Mr. Justice O'Sullivan in Winnipeg who stated that in this constitutional case, the submission of the Attorney General of Canada ends up in the proposition that a political party, if it forms the majority of both Houses of the Canadian Parliament, has the power to amend the Constitution of our country as it pleases.

Surely it is a question of privilege to be able to call the Attorney General of Canada before the appropriate committee to find out if his feeling is that any party having the majority of both Houses of the Canadian Parliament has the power to amend the Constitution of our country as it pleases. I say this remembering that the Attorney General of Canada, in effect, is an officer of the House of Commons. Among his functions, he is expected to advise us on the legal implications of whatever we are being asked to do.

I could go on to cite what Mr. Justice O'Sullivan mentioned as to what he feels may well be the illegal grounds which we are being asked to accept. He stated that by a non-legal convention the British Parliament is bound constitutionally, but not legally, to amend the Canadian Constitution in whatever way both Houses of the Canadian Parliament concur in requesting. I could mention the various instances where Mr. Justice O'Sullivan quoted the Attorney General of Canada as taking certain positions with respect to the question which may be before us later this week or during the month of April. I would like to put it succinctly, Madam Speaker. It is as simple as this. I, as a sitting Member of Parliament, and other Members of Parliament who have read the various judgments which have been rendered in the Manitoba Court of Appeal, are being told that it may be that the resolution we are being asked to pass is, in effect, illegal. We are told that we in this House are being asked to do something which invades or somehow detracts from the sovereignty of provinces and which is beyond our jurisdiction.

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Surely it behooves every member of this House now that this matter, only within this week, has been referred to the Supreme Court of Canada and will be finally adjudicated starting on April 28, to seek out our own legal advice as to whether we are possibly doing something illegal if we continue not only to consider but eventually to pass the constitutional resolution the government has asked us to deal with. I say this because, as I indicated before, Madam Speaker, you will recall that prior to his trip to the United Kingdom the Attorney General of Canada, in a release which bore his name, put out a