

Having read that proposed motion into the record, I would like to emphasize that my question of privilege centres on the obligation of the Attorney General of Canada to provide independent, impartial legal advice to this House and to every member of this House with respect to certain issues which may arise from time to time which the House considers.

My argument will take us through various authoritative sources. I intend to refer Your Honour to various provisions in the Department of Justice Act itself, but I will begin by summarizing the main thrust of what I hope will satisfy Your Honour that I have a *prima facie* case.

I will start by saying that one of the duties of the Attorney General is to provide legal advice to the House of Commons in a non-partisan fashion, even if such advice should prove embarrassing to the government itself. That is in part the crux of what we will be arguing.

The Attorney General of Canada is a unique officer of the Crown. We find that in defining the duties of the Attorney General of Canada Section 5 of the act itself draws attention to the fact that the Attorney General of Canada shall:

(a) be entrusted with the powers and charged with the duties that belong to the office of the attorney general of England by law or usage, so far as those powers and duties are applicable to Canada, and also with the powers and duties that, by the laws of the several provinces, belonged to the office of attorney general of each province up to the time when the British North America Act, 1867, came into effect, so far as those laws under the provisions of the said Act are to be administered and carried into effect by the Government of Canada;

I read that section into the record because I feel that I can make a case that our Attorney General of Canada has so compromised his position in his partisan endorsement of the government's constitutional resolution that is before us that he no longer can freely advise members of this House concerning our legal position in dealing with that resolution.

I say that because I will be reading into the record what certain supreme court and court of appeal justices have already said concerning the possible illegality of what we in this House are being asked to do. When we face the reality of a government having brought in a resolution which is being contested from various quarters of the land and which has already been before the Court of Appeal in Manitoba where two justices have indicated in their judgments that there is considerable doubt as to its legality I suggest it is absolutely essential that we have an Attorney General in the House—who, after all, is responsible to this House, and I emphasize that—who does not compromise his impartiality and remains in a neutral role which would allow us to call on him for specific legal advice on the legality of what we have before us.

Madam Speaker: Order, please. I had some grave reservations when I saw the text of the written notice which the hon. member sent to me with respect to his question of privilege. I felt that the way it was written came very close to what I am now sure he is doing. I think he is reflecting upon the conduct of another member, and I want to read to him from Erskine May at page 428. I refer to the paragraph entitled "Reflections on the Sovereign, Etc.". It says:

Privilege—Mr. Stevens

Unless the discussion is based upon a substantive motion, drawn in proper terms, reflections must not be cast in debate upon the conduct of—

A number of people, including members of either House of Parliament.

Nor may opprobrious reflections be cast in debate on—

The people referred to.

The hon. member is reflecting on the conduct of the minister and on the way he has carried out his duties, and I am afraid I can only hear him under a substantive motion in which he clearly charges the hon. minister with whatever he feels has been done improperly.

I cannot judge whether a minister or a member has properly carried out his duties. Therefore, there is no point in discussing that in the House unless the hon. member wants to make a substantive motion, and then he can give us notice of that.

Mr. Stevens: Madam Speaker, certainly over the dinner break I will read the citation in Erskine May to which I have referred, but I suggest that if you hear me out on the main thrust of what I am raising as a question of privilege, you will agree that the office of Attorney General of Canada is in truth a very unique office, especially in relation to this House of Commons. Madam Speaker, this is not a reflection on a member, as you say. It is a question as to whether the person filling the office of Attorney General of Canada can, because of certain other extenuating circumstances, continue to perform his function as Attorney General of Canada as the House of Commons may from time to time require.

In order to substantiate my case I will have to refer Your Honour to some of the precedents which are available concerning the role of the attorney general in England. I will be reading into the record some very important statements which have been made by previous attorneys general in Canada as to the nature of their role—

Madam Speaker: Order. It being six o'clock I do now leave the chair until 8 p.m.

At 6 p.m. the House took recess.

AFTER RECESS

The House resumed at 8 p.m.

Mr. Stevens: Madam Speaker, during the dinner break I had an opportunity to refer to the quotation on page 428 of the nineteenth edition of Erskine May to which you referred earlier and I would like to have the subprivilege of being able to comment concerning your dilemma as you outlined it to the House just prior to dinner. On reflection, Madam Speaker, I felt you were really saying that if I was saying something that was a reflection on a Member of Parliament or, in this case, a minister of the Crown, I could only speak to that through a substantive motion. I felt that then brought me to the dilemma of how to put the substantive motion before you, because if we refer to the general heading "Matters Requiring Immediate