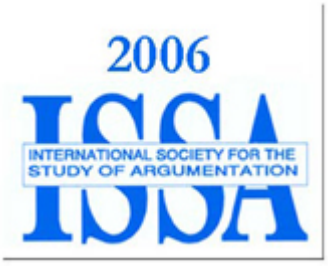
ISSA Proceedings 2006 – Resort To Persuasive Authority: The Use And Abuse Of Legal Argument In Political Discourse



1. *Introduction: Debating the Invasion of Iraq in the United Kingdom Parliament*

Politics engages the art of persuasion, for which laws may be called in aid, but the desire to persuade must not overreach sound legal opinion. In particular, politicians who use legal arguments for more than rhetorical dressing must be convincing by legal standards. A spectacular example of the resort to legal advice in order to sustain a political decision was the UK government's justification, made in the British Parliament, for its invasion of Iraq in 2003. In our paper we will use this example to investigate the role of sound legal argument for the democratic process alongside the dangers of flawed legal argumentation in support of the politics of persuasion.

The UK government set a novel precedent in engaging in a public debate in the House of Commons whether the United Kingdom should use armed force against Iraq. Never before had a legal opinion of the Attorney-General been made available to the public; typically the counsel of the government's legal advisor is confidential. Never before had the UK government's intention to make war been subjected to debate by the public's elected representatives in Parliament; in the past the government has always decided matters of peace and war. Here then was a transparent use of law in political discourse.

The question of the legality of the proposed invasion was crucial. In taking the advice of Lord Goldsmith, the Attorney-General, Prime Minister Blair appears to have sought to lead the government and the country to act within the law, but whether that actually was the case became part of the parliamentary debate.

2. *The Government's Motion*

The British government's position was publicly presented in a motion before the House of Commons on 18 March 2003, very shortly before the invasion of Iraq began. The motion first took note of four essentially factual premises regarding

Iraq's obligations under UN Security Council resolutions and its continuing breach of them. Its central portion stated that the House:
notes the opinion of the Attorney General that, Iraq having failed to comply and Iraq being at the time of Resolution 1441 and continuing to be in material breach, the authority to use force under Resolution 678 has revived and so continues today; believes that the United Kingdom must uphold the authority of the United Nations as set out in Resolution 1441 and many Resolutions preceding it, therefore supports the decision of Her Majesty's Government that the United Kingdom should use all means necessary to ensure the disarmament of Iraq's weapons of mass destruction. (House of Commons Hansard, 18 March 2003, col.760)

The remaining clauses of the motion concerned support for British troops on duty in the Middle East, post invasion plans for the rebuilding of Iraq politically and economically and finally commendation for the "Quartet's roadmap", a proposed blue print for bringing peace to Israel and Palestine and to the wider Middle East. Assuming for present purposes that the factual assertions about Iraq's continuing breach of its legal obligations were correct, the Attorney-General's reading of the relevant UN resolutions provided the legal basis for the UK's determination to use force against Iraq. This deconstruction of the motion before the House of Commons shows that the legal opinion of the Attorney-General was a central element in the UK government's policy towards Iraq. The motion expressly invited the House to support the government's decision to invade Iraq in the belief this was an appropriate exercise of legal power.

3. *The Attorney-General's Legal Opinion*
Such a significant reference to UN authority demands a review of the relevant Security Council resolutions and the Attorney-General's interpretation of them. His legal opinion, in summarized form, was placed before the House of Commons by the Solicitor General on March 17, 2003, only one day before the debate on the government's motion. It read:
Authority to use force against Iraq exists from the combined effect of resolutions 678, 687 and 1441. All of these resolutions were adopted under Chapter VII of the UN Charter which allows the use of force for the express purpose of restoring international peace and security:
(1). In resolution 678 the Security Council authorised force against Iraq, to eject it from Kuwait and to restore peace and security in the area.

(2). In resolution 687, which set out the ceasefire conditions after Operation Desert Storm, the Security Council imposed continuing obligations on Iraq to eliminate its weapons of mass destruction in order to restore international peace and security in the area. Resolution 687 suspended but did not terminate the authority to use force under resolution 678.
(3). A material breach of resolution 687 revives the authority to use force under resolution 678.
(4). In resolution 1441 the Security Council determined that Iraq has been and remains in material breach of resolution 687, because it has not fully complied with its obligations to disarm under that resolution.
(5). The Security Council in resolution 1441 gave Iraq "a final opportunity to comply with its disarmament obligations" and warned Iraq of the "serious consequences" if it did not.
(6). The Security Council also decided in resolution 1441 that, if Iraq failed at any time to comply with and co-operate fully in the implementation of resolution 1441, that would constitute a further material breach.
(7). It is plain that Iraq has failed so to comply and therefore Iraq was at the time of resolution 1441 and continues to be in material breach.
(8). Thus, the authority to use force under resolution 678 has revived and so continues today.
(9). Resolution 1441 would in terms have provided that a further decision of the Security Council to sanction force was required if that had been intended. Thus, all that resolution 1441 requires is reporting to and discussion by the Security Council of Iraq's failures, but not an express further decision to authorise force. (House of Commons Hansard, 17 March 2003, col. 515W)

At first glance, the clarity of the Attorney-General's legal opinion is attractive but a closer analysis exposes the weaknesses in his reasoning. He correctly stated that resolutions adopted under Chapter VII of the UN Charter may allow states to use force for the purpose of restoring peace and security, but his view that resolutions 678, 687 and 1441 did so is highly questionable. While points 1 and 2 accurately characterize the contents of resolutions 678 and 687, point 3 consists of the astonishing and unsupported assertion that "[a] material breach of resolution 687 revives the authority to use force under resolution 678." In making this claim Lord Goldsmith spoke in a way that contradicts what these two resolutions can reasonably be taken to mean and to mandate.
It is important to remember that resolution 687 was a decision of the Security

Council. Under the UN Charter, this body had the power both to authorize the use of force against Iraq, which it exercised in resolution 678, and to declare an end of hostilities on terms, which it did in resolution 687. Moreover, the Security Council in the closing paragraph 34 of resolution 687 decided "to remain seized of the matter and to take such further steps as may be required for the implementation of the present resolution ...." How, then, can the Attorney-General possibly be correct to assert that a single state, such as the United Kingdom, may contradict the ceasefire resolution of the multilateral body to which it is a party, or read its decision as authorising independent interpretations of future action? Even assuming the correctness of the observations in points 4-7 about resolution 1441 and Iraq's continuing failure to comply with its disarmament obligations, Lord Goldsmith's key premise to the effect that "a material breach of 687 revives the authority to use force under resolution 678" should be rejected, and hence his main conclusion that "the authority to use force under resolution 678 has revived and so continues today" cannot be said to follow.

Furthermore, the principal objective of resolution 678 was to authorize states to use force to remove Iraq from Kuwait. Since this goal had been achieved, as the ceasefire resolution 687 acknowledged, any supposed revival of authority regarding Kuwait under resolution 678 would have no point and could not justify British intervention in Iraq. While resolution 687 imposed stringent sanctions and duties on Iraq, it did not authorise other states to take action towards Iraq. To his credit, the Attorney-General did not claim that it did.

In respect of resolution 1441, the Attorney-General indicated that it did not require "an express further decision to authorise force." Having already asserted that the right to use force had been revived (point 8), this further claim (point 9) was a necessary appendix to his legal opinion in order to counter the contrary implications of resolution 1441. Although resolution 1441 threatened Iraq with "serious consequences" (understood in Security Council phraseology to mean the exercise of armed force), it did not expressly state that a further resolution in addition to 1441 was necessary. The omission of such a provision in resolution 1441 suggested enough ambiguity for the Attorney-General to exploit this lack of precision and insist that no further decision of the Security Council to sanction force was necessary.

Such a manoeuvre was frankly disingenuous. Silence or absence of expression on so significant a point in resolution 1441 does not automatically imply consent. On

the contrary, since the military invasion of one state by another is prohibited by the UN Charter as an act of aggression in violation of international law except when collective measures are authorized under Chapter VII, it is much more reasonable to suppose that the Security Council's silence implied that it had yet to decide and declare how and when its threat of serious consequences for Iraq was to be carried out. Indeed, the Security Council expressly declared in resolution 1441 that it would "convene immediately upon receipt of a report [from the UN and IAEA inspectors] in order to consider the situation" (para.12) and that it remained seized with the Iraqi matter (para.14). In so deciding, the Security Council indicated that it had not made its final decision regarding Iraq. This interpretation is further supported by the conduct of the Security Council members. Their subsequent acrimonious debate about a further resolution, which the UK government actively supported, added to the incredulity of the view that, by consensus, none was needed.

The flawed reasoning on the part of the Attorney-General undermines the veracity of his legal opinion. Since Lord Goldsmith's advice became a key element in the UK government's motion before the House of Commons, it will be informative to consider how the legal argument advanced by him, as well as the adequacy of his legal opinion, affected the ensuing political debate.

4. *The Prime Minister's Speech*

The discussion of the government's motion was opened by Prime Minister Blair and brought to a close with the remarks of Jack Straw, the Secretary of State for Foreign Affairs. In between, 58 members of the House spoke to the motion. In order to ascertain how legal and political argumentation interfaced in this debate, critical attention will first be given to the Prime Minister's speech in favour of the motion, discussing, in particular, his references to and use of legal authority. As for the other speakers, who exhibited a broad range of stances and considerably different levels of acuity and insight, a representative sample of their contributions will be reviewed. This analysis will permit development of a concluding set of critical reflections about the use and abuse of legal argument in political discourse.

To ensure passage of the motion, Tony Blair needed to persuade the House that an immediate intervention in Iraq was justified. In the case that he made for the motion, both in his speech and in answers to members' interjections, he reasoned thus:

Premise 1: Saddam Hussein has consistently and persistently refused to meet the UN demands to disarm Iraq of weapons of mass destruction as required by 17 resolutions over 12 years. (House of Commons Hansard, 18 March, 2003, cols.761-762)
Premise 2 "Resolution 1441 is very clear: it lays down a final opportunity for Saddam to disarm … it says that this time compliance must be full, unconditional and immediate." (col.762)
Premise 3: After resolution 1441, the inspectors reported some cooperation but also a great many unanswered queries. (col. 762)
Premise 4: The UN Security Council struggled towards a further resolution potentially to contain 6 specific tests for Saddam Hussein to demonstrate full cooperation until France announced it would veto any such resolution. (cols.763-764)
Premise 5: "Any fair observer does not really dispute that Iraq is in breach of resolution 1441 or that it implies action in such circumstances." (col.767)
Premise 6: "We have to act within the terms set out in resolution 1441- that is our legal basis." (col.772)
Conclusion: The United Kingdom should use all necessary means to ensure the disarmament of Iraq's weapons of mass destruction. (motion)

Blair's argument began with four factual claims his target audience were unlikely to dispute. He supported Premise 1 with a chronological narrative about Saddam Hussein's repeated failures to fulfill his disarmament obligations. Premise 2 was a good enough paraphrase of the demands made by resolution 1441 on Saddam Hussein. Blair backed up Premises 3 and 4 with a description of the abortive diplomatic efforts to secure a further UN resolution licensing armed intervention. But his insistence that resolution 1441 implies action (Premise 5) and his assertion that the United Kingdom has to act (Premise 6) are open to serious doubt.
Even assuming that Iraq was in breach of resolution 1441, as asserted in Premise 5, it is not obvious that the resolution implied the immediate intervention Blair envisaged. Blair never explained how the implication of action arose or the scope and form such action might take. Indeed, whether and under what conditions any kind of action against Saddam Hussein should be taken pending ongoing weapons' inspections was the heart of the unresolved Security Council debate. Yet Blair's readiness to draw an implication of action can be read in the motion he was proposing, which incorporated the central point of the Attorney-General's

legal advice, namely that the authority to use armed force was revived by Iraq's breaches of resolution 1441. Even if Blair believed this flawed advice, he conveniently passed over the crucial distinction that legal authority to act is a discretionary power and does not necessarily imply one must act. Blair's choice of armed intervention in Iraq was widely known and, reasonably enough, he sought to clothe it in legal authority, but he crossed the line between legal reasoning and political persuasion if he implied that action under resolution 1441 was his duty.
Nor did Blair advance his argument, in premise 6, by asserting that "we have to act within the terms set out in resolution 1441- that is our legal basis." (col.772) This commitment was a choice of action which could take the UK government only as far as resolution 1441 went. No one doubted Blair's belief expressed in the motion that "the United Kingdom must uphold the authority of the United Nations as set out in resolution 1441" nor that resolution 1441 was the correct legal basis, but many questioned what Blair and his Attorney-General interpreted its contents to mean. Lord Goldsmith's opinion regarding resolution 1441, on which Tony Blair relied, was, with good reason, challenged by some members of the House in the subsequent debate.

As a result, Blair's conclusion that the United Kingdom should use all necessary means to disarm Iraq is not sustainable. He urged this policy but, beyond the emotional appeal that his speech engendered, he needed at least one substantive, well defended premise articulating the *bone fide* existence of legal authority that would secure for the government the legal right to intervene. Neither premise 5 nor premise 6 provided that solid underpinning, – unless the legal opinion of the Attorney- General was accepted without scrutiny. But if this were the case, the UK government laid itself open to the charge of using expert legal opinion, not as a source of trustworthy authority (as it is customarily regarded), but as just another weapon of political persuasion. Worse still, if the debased use of legal authority was known to Tony Blair but not to others, he was guilty of perverting the course of open political discourse.

5. *The Parliamentary Debate*
How then, did the legal elements of the motion figure in the ensuing debate? Of the 59 who spoke, 39 made some reference to the legality of a proposed intervention in Iraq or the UN resolutions pertinent to the motion. They can be grouped as:
(1) members of the House who thought the law was irrelevant;

(2) members who approved or accepted the government's reading of it; and
(3) those who were critical of the Attorney-General's interpretation of the Security Council resolutions. Representative opinions from each group will be discussed in turn.

Speakers who expressed the view that legal authority was irrelevant were largely derisory in tone. John Denham observed that "[t]he question for me has never been one of narrow legality. … lawyers are the last thing one needs when things are difficult." (col.798) Tony Banks remarked how legal opinion for one's personal point of view can always be bought from some lawyer. (col.880) David Heath said he did "not want to get hung up on international law, which is often a chimera that can take any shape that the strongest country chooses to adopt for it." (col.888) Regrettably, this group of speakers overlooked much of Prime Minister Blair's argument and the core of the government's motion that they were debating. Armed intervention in a foreign country for humanitarian purposes is still a violation of international law in the absence of Security Council authority under the UN Charter chapter VII. So it was impossible to set aside the law in this debate.
The larger point exemplified here is the relation of the law to the whole political process. The legal system provides the superstructure of institutions and procedures as well as substantive rules within which politics is played out, while the political process is able to create or change the law. This symbiotic relationship is not severable. One would hope that politicians would have a particularly good appreciation that their political choices of action are subject to the laws that also accord them the authority to make such executive decisions.
A second group of speakers adverted positively to the reference in the motion to the Security Council resolutions and the Attorney-General's opinion that they afforded legal authority to use force against Iraq. Some, like Bruce George, expressed "support [for] the Government because the Attorney-General said… there was a legal basis for the war." (col.802) A somewhat more thoughtful approach was adopted by John Maples when he said "the opinion of the Attorney-General seems to me powerful and well argued." (col.838) Both speakers, as indeed all member of the House, were entitled, if not expected, to adopt the Attorney-General's opinion of the governing law. The quality of the Attorney-General's legal advice ought to be above reproach. The Attorney-General is not any lawyer on the street for hire, but a selected and appointed legal officer of the Crown backed by a large department of legal expertise. Legal counsel from such a

source is normally highly respected, without being unchallengeable. Further, as the expression of professional expertise, it should also be trustworthy in the sense that it is proffered with integrity. By placing it in the public domain, the government invited members of the House of Commons to accept and trust the Attorney-General's legal opinion that invading Iraq was lawful and permissible. But here is the rub. The faulty reasoning in the Attorney-General's statement, as demonstrated previously, suggested to sceptics within and without the House that the government did not provide the opinion publicly as a reliable and non-partisan assessment of the legal situation, but rather advanced it as another tool of political persuasion. If this was true, the government's conduct was a perversion of the political process and a debasement of the legal system to which the government owed its authority to govern.

The largest number of speakers of the three groups was critical of the legal stance at the core of the government's motion. In adopting such a position, it behoved the critics to provide reasons for refusing to acknowledge the Attorney-General's legal opinion. They did so in two ways: by denigrating the author or by denying the integrity of the text. It is unfortunate that the Attorney-General was personally attacked. As noted previously, his authority as legal advisor to the government should be above reproach, but not all members of the House thought it was. The most direct attack was launched by Brian Sedgemore who called the Attorney-General "a commercial lawyer, who, frankly, seems to be out of his depth when trying to deal with this problem."(col.837) Even if such disparagement of the Attorney-General was justified, it does not advance discussion of the legal argumentation in any way. Striking at the competence of the Attorney-General may take down the value of his legal opinion, but offers nothing in its place. Greater attention may more profitably be paid to the critics of the content of the Attorney-General's text.

Some of these critics simply preferred the legal counsel of alternative experts. For example, Peter Kilfoyle, who introduced a wrecking amendment to the motion which was voted down, and Charles Kennedy, his party leader, relied on the opinion of Kofi Annan, the Secretary-General of the United Nations, that invasion of Iraq without a further force-authorising resolution would be contrary to the UN Charter. (cols.781 & 786) It is clear that Kofi Annan's view directly contradicted the Attorney-General's advice, so that in favouring it, these speakers essentially substituted one expert opinion for another. Their contribution to the legal

argumentation in the debate was therefore very limited. Their contestation was not over the legal arguments themselves, but over their legal champions: who, rather than what, was more believable.

Those speakers who offered alternative accounts of the governing law focused on resolution 1441. Michael Moore gave the most explicit consideration to resolution 1441 and, of all the speakers, showed the best grasp of the relevant law and the inferences which might be drawn from it. He first noted that in taking on Saddam Hussein because he ignored international law, the United Kingdom had also to "respect the principles of international law, in whose name we act" (col.831) and hence the importance of interpreting resolution 1441 correctly. As to that resolution, he noted that it talked about a "further material breach," a "final opportunity" and "serious consequences," but he emphasised paragraph 12 in which the Security Council decided "to convene immediately upon receipt of a report in accordance with paragraphs 4 or 11… in order to consider the situation and the need for full compliance…." He concluded that "[i]n weighing up the best way to tackle Saddam, it is the Security Council as a whole that must judge the course of action to take. The Government's efforts in recent days to persuade the Security Council members about their course of action shows that they recognise this truth: however, their arguments have not prevailed. The core of 1441 is about the weapons inspectors. … The process set out in 1441 is not exhausted;" (col.831) In Moore's view, the United Kingdom should not have gone to war against Iraq but should have continued to work within the framework of the United Nations.

A number of members were also puzzled how the United Kingdom and the United States could strive to persuade the UN Security Council to pass a further resolution authorizing collective measures of force and yet claim that none was necessary. As John Baron reasonably asked: "Why did the US and UK try to secure a second resolution if not to provide legal cover for war? … Why does a growing body of opinion, both at home and abroad, question whether resolution 1441 is sufficient justification for war?" (col.835) Jack Straw, the Foreign Secretary, had tried to forestall these obvious questions the night before when he addressed the House in preparation for the forthcoming debate on the motion. He emphasized twice that a further resolution was never needed legally but would have been preferable politically. (March 17 debates, col.703 & 716) The trouble with this answer was that it relied on the doubtful legal opinion of the Attorney-General and thus was also infected with doubt.

In pursuing the issue whether a further resolution was required, several members referred to the statements of Security Council members in addition to the words of the Security Council resolution. John Baron observed how "the American ambassador to the UN was at pains to emphasize at the time that there were no hidden trigger points for war in the resolution." (col.835) John McDonnell, in believing war would be illegal, thought it impossible to "erase the US ambassador's commitment to the UN Security Council partners that resolution 1441 contained no hidden triggers and 'no automaticity'." (col.875) In his closing speech on the motion, Jack Straw also acknowledged that the UK ambassador "told the Security Council when resolution 1441 was passed, there was indeed 'no automaticity' about the use of force." (col.901) Thus, critics of the Attorney-General's legal opinion consequently appeared to have strong support for their reading of resolution 1441 that a further resolution to use force was required from the very governments that opposed such an interpretation.

This apparent paradox was elucidated by Jack Straw towards the end of his closing speech only moments before the House voted on the motion. In declaring there was no automaticity about resolution 1441, he stated that the use of force against Iraq was not conditional on a further resolution but "was entirely conditional on Saddam's compliance or otherwise with the resolution." (col.902) Unfortunately there was no opportunity at this late stage of the debate for any members to comment on Jack Straw's "clarification" before the motion was put to the House, so it will never be known whether it surprised his audience and how much difference it made to the vote. What Straw said presented a blatantly different reading of the resolution. Such diversity of interpretation emphasizes the contentiousness surrounding the intent of resolution 1441 and the variety of ways by which its text, upon close leaning, may be read, all of which should have made the Attorney-General hesitate to state his opinion in such unqualified terms.

6. *Appraisal: Losing the Legal Arguments*

What lessons may be learned about good reasoning when political discourse is interwoven with legal opinion? First, on occasions when the meaning and analysis of legal documents are central to political debate, parliamentarians need to take note of their content in context. In this case, evidently far too few members of the House had acquainted themselves with the Attorney-General's legal opinion or with the substance of resolutions 678, 687 and 1441 and the implications of their joint application. Thus, they were unable to ask probing questions or even profit from the understanding of other speakers who did have some grasp of what the

UN resolutions mandated. Such ignorance was compounded by the group of speakers who declared that legal authority was irrelevant. In consequence, they were ready to intervene in Iraq in breach of the law and visit the vilified Saddam Hussein with violence regardless of legal constraints. However well intentioned such action might be, it would still be a resort to the demagogue's own tactics of asserting a point of view by brute force.

Nor was it adequate, as several speakers did, to assert on patriotic, moral or humanitarian grounds that action against Saddam Hussein was the right thing to do. Indeed, the political discourse was depreciated by the signal failure to appreciate the role the law played in the debate. Law is authoritative in several senses. It may require or prohibit action, thus imposing a legal obligation controlling conduct. Law may also be permissive by granting authority to act. In this sense, law clothes the person addressed by it with a discretionary power to act: it enables action but does not oblige it. The difference in the application of legal authority is striking and crucial. In the present context, the UN Security Council failed to achieve a further resolution after number 1441 to empower states to act against Iraq but the UK Attorney-General said they had legal authority anyway. He did not say the UK was obliged to invade Iraq. Tony Blair came perilously close to, if he did not actually cross the line, in the sense of finding a legal obligation to take action against Iraq in the asserted authority to act. It is difficult to tell for sure because he carefully, deliberately and effectively developed his argument for action principally as a moral obligation. The point to note is that a moral duty does not beget a legal duty, but a legal power does permit a moral duty to be performed. The speakers who ignored the law also ignored this crucial distinction and their arguments, whatever their intrinsic worth, utterly failed to address the prerequisite in the motion whether the forceful actions they desired would be lawful.

Secondly, just because the statement about the governing law was delivered by the Attorney-General should not have clouded appraisal of his advice. Expert opinion is not sacrosanct. It is open to critical scrutiny. An individual, even a well known one, who speaks with the apparent authority of experience and professional expertise, does not have to be believed without question. But the credibility of the contents of a statement by such a person is different from the trustworthiness with which it is presented. Members of the House should have been entitled to trust the integrity of the Attorney-General's statement. Unfortunately, Tony Blair relied on it in a way which suggests that expert legal opinion is essentially of use to the extent that it has political currency rather than

legal integrity.

Thirdly, unreasoned disbelief of the Attorney-General's opinion is as open to criticism as abject acceptance of it. While some speakers doubted the Attorney-General's legal abilities or expertise, other speakers simply preferred contrary opinions of other legal experts. But personal attacks, whether on the Attorney-General or other speakers in the House, or the substitution of alternative "authorities" was hardly a contribution to the discussion. Attacking an opponent is a common political ploy which certainly clouded this debate. But it is most regrettable if this tactic prevented appropriate attention being given to the arguments of speakers, like Michael Moore and John Baron, who did contribute informed and informative views on the legal issue at the centre of debate.

Fourthly, the few speakers who did review the crucial legal sources tended to dwell on the impact of resolution 1441. Some made a textual analysis of it by which they reached an interpretation that contradicted the Attorney-General's view of it. They inferred that the resolution left control over whether action should have been taken against Iraq in the hands of the Security Council, which needed to make the judgment as a whole. This was an effective argument towards a more plausible interpretation than the Attorney-General's since it was developed from what the resolution expressly stated while his depended on inferences from what was not stated. However, these critics may themselves be criticized for not going further back in the Attorney-General's statement and analysing the grounds for his assertion, repeated in the motion, that the authority to use force under resolution 678 had revived. As demonstrated earlier, a much stronger textual critique of the Attorney-General's opinion could have been mounted.

Overall, parliamentarians as a group did poorly at grappling with the law so crucial to the important motion before them. On any future occasion when Parliament may be called upon to decide whether to go to war, the Blair-led debate must not be taken as a model. It was most certainly not a paradigm of well reasoned decision making when the legal meets the political. In addition, the government's own contribution was an example of flawed legal reasoning used to support the politics of persuasion. This way of doing political business defeats the goal of engaging in democratic decision making on the basis of relevant sources of accurate information. Sound legal argument, when necessitated by the issues in debate, should be the recognized and valued partner, and not the prostitute, of political discourse.

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