

• (1505)

## PRIVILEGE

### UNAUTHORIZED USE OF PHOTOGRAPH—SPEAKER'S RULING

**The Speaker:** I am now ready to rule on the question of privilege raised by the hon. member for Saint John on May 30, 1995. For providing me with the relevant facts and documents related to this matter and for their contributions to the discussion, I would like to thank the hon. member and the hon. Minister of Health.

In her presentation, the member brought the House's attention to a photograph of her used in an expert panel report entitled "When Packages Can't Speak". The report concerning plain and generic packaging of tobacco products had been prepared at the request of the Department of Health.

The member claimed that the unauthorized use of her picture in a visual impact study included in the report had violated her privacy, was an assault on her dignity as an individual and as a member of the House, had opened her up to ridicule and had stereotyped her in a manner that misrepresented who she was and thus could impede her ability to perform her duties as a member of Parliament. She therefore requested a public apology from the Prime Minister and an explanation from the Minister of Health as to how her picture could have found its way into this expert panel report.

[Translation]

On June 1, 1995, the hon. Minister of Health responded to the matter. In her intervention, the minister explained that she, members of the expert panel and representatives of the private company charged with selecting the photographs, when informed that the picture used was one of the hon. member, had immediately issued a letter of apology to the member. The minister then tabled a copy of a letter to the hon. member explaining how her picture had been selected.

This matter has troubled me and I have looked into it carefully. I believe that it is important that I give the House a chronology of certain events which preceded the raising of this question of privilege, for the panel report in question is part of a larger study in which the House, through one of its committees, has been directly involved.

[English]

On June 21, 1994 the Standing Committee on Health presented its first report entitled "Towards Zero Consumption: Generic Packaging of Tobacco Products". Pursuant to Standing Order 109 the government was requested by the committee to table a comprehensive response. On November 18, 1994 the

### Speaker's Ruling

Minister of Health tabled the government response to the committee report. In responding to the standing committee's recommendations the government noted that:

—an expert panel, comprised of specialists in marketing, package design and consumer behaviour, and chosen in collaboration with provincial and territorial partners in the National Strategy to Reduce Tobacco Use, has established a study framework designed to determine what relationship may exist between generic packaging and the taking up of smoking by youth.

[Translation]

The Government response also noted that Health Canada would thoroughly review and analyse the evidence assembled by the expert panel and would take into account the study and conclusions of the Standing Committee on Health. Thus, the standing committee could be said to have been anticipating the opportunity to give detailed study to the panel report.

[English]

The report dated March 1995 was released to the media and the public on May 19, 1995. To ensure that the committee was familiar with its contents, that morning Health Canada held an informal briefing for the committee attended by members, staff and researchers. Copies of the report were also distributed to all members of the House in the usual manner.

• (1510)

[Translation]

Photographs of members of Parliament and images of the House of Commons and the Parliament buildings are seen everyday on television and in newspapers and magazines. These images form part of the media coverage of Parliament that we have come to expect. They may be used in a straightforward manner or satirically, but their focus is ultimately on the work of Parliament and parliamentarians.

[English]

It is possible however that these same images of members and of the institution of Parliament may be misrepresented. In our history there exist examples of cases where the symbols of Parliament have been used inappropriately. In each instance objections have been raised in the House.

As examples, I would refer members to Speakers' rulings regarding the Sperry and Hutchison Company, as found in the *Journals* of February 16, 1960 at pages 156 to 158, and the Steelworkers of Hamilton Council as found in the *Journals* of March 23, 1965 at pages 1159 and 1160. In both cases, documents meant to look like *Hansard*, a publication carrying with it the image of the House of Commons, were published and distributed by non-parliamentary bodies. The Speaker ruled both matters to be prima facie cases of privilege.