

# HOUSE OF COMMONS

Thursday, March 24, 1994

The House met at 10 a.m.

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Prayers

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[English]

## PRIVILEGE

MEMBER FOR MARKHAM—WHITCHURCH—STOUFFVILLE—SPEAKER'S RULING

**The Speaker:** Yesterday the hon. member for Markham—Whitchurch—Stouffville rose in the House to address the question of personal privilege which he previously raised on February 15 and subsequently withdrew. The hon. member claimed, at that time, that his ability to function as a member of Parliament had been impeded. He shared with the House a series of events relating to his academic credentials and qualifications, comments made about him by the media, as well as a threat by an anonymous telephone caller.

• (1005)

Let me begin my ruling by defining for the House just what constitutes parliamentary privilege. Erskine May in *Parliamentary Practice*, 21st Edition, page 69, defines privilege as:

—The sum of the peculiar rights enjoyed by each House collectively—and by Members of each House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals. Thus privilege, though part of the law of the land, is to a certain extent an exemption from the general law. Certain rights and immunities such as freedom from arrest or freedom of speech belong primarily to individual Members of each House and exist because the House cannot perform its functions without unimpeded use of the services of its Members—.

When any of these rights and immunities is disregarded or attacked, the offence is called a breach of privilege and is punishable under the law of Parliament.

Pursuant to our practice and convention, when the Speaker rules on a matter of privilege all that is being decided is whether the facts and evidence laid before the House are, in a *prima facie* case, sufficient to allow the usual motion to be proposed and debated over all other business leading to a decision of the House thereon. This is clearly explained in Beauchesne 6th Edition, citation 26:

(2) A question of privilege—is a question partly of fact and partly of law—the law of contempt of Parliament—and is a matter for the House to determine. The decision of the House on a question of privilege, like every other matter which the House has to decide, can be elicited only by a question put from the Chair by the Speaker and resolved either in the affirmative or in the negative, and this question is necessarily founded on a motion made by a Member.

[Translation]

(3) It follows that though the Speaker can rule on a question of order, the Speaker cannot rule on a question of privilege. When a question of privilege is raised the Speaker's function is limited to deciding whether the matter is of such a character as to entitle the motion, which the Member who has raised the question desires to move, to priority over the Orders of the Day.

[English]

In other words my duty as Speaker is to decide whether the hon. member for Markham—Whitchurch—Stouffville has presented sufficient argument to convince me that debate on his situation should take precedence over all other House business, and that the House should therefore consider the matter immediately.

In coming to my decision on this matter I have reviewed the decisions of many former Speakers.

Speaker Jerome in dealing with a similar case on June 23, 1977 ruled that:

—the protection of an elected person against unwarranted or intemperate publicity, even abuses or defamatory publicity, is precisely that which is enjoyed by every citizen before our courts.

[Translation]

He went on to add that:

As elected people we can and do expect to be the targets of attack. When those attacks seem offensive I think it is appropriate the Hon. Member is offered the courtesy of the House to extend to his hon. colleagues an explanation of the circumstances.

[English]

He concluded that:

—when these matters do take place, if they go beyond the point of being offensive to the point of being defamatory in a legal sense, certainly members ought to and will I am sure pursue matters through the courts.

Speaker Jerome ruled there was no *prima facie* privilege in that instance.