



# Speaker's Rulings

Use of Internet Sites by Members of the Legislature, December 13, 2000,  
Speaker Gary Carr, Legislative Assembly of Ontario



**Background:** On Monday, December 5, 2000, the Member for Windsor-St. Clair (Dwight Duncan) rose on a question of privilege in order to express his concern about information on a government website. In particular, the Member was of the view that a press release on the website of the Ministry of Community and Social Services was partisan, political propaganda that should not be funded by his constituents and other taxpayers, and that the press release was also delivered to Members by way of the Legislative Mail Service, instead of being distributed by the Party or by the caucus.

The next day, the Member rose on another question of privilege to indicate that the website of the Office of the Premier, as well as Intranet communications of the Ministry of Labour, also contained partisan material. The Member was of the view that the material was a violation of his privileges and of a provision in Section 28 of the Public Service Act, that the government was trying to intimidate its

opponents with taxpayer dollars, and that the material violated not only the privileges of Members, particularly the Leader of the Opposition, but also the ethics of the people of Ontario. The Government House Leader (Mr. Sterling) also made submissions on this point.

**Ruling (Speaker Gary Carr):**

I have had an opportunity to review the Member's supporting documentation in light of the parliamentary precedents. I will address each of his concerns in turn. First, with respect to the allegation that Members are being intimidated, the fact that government websites contain information that Members object to does not in and of itself establish a *prima facie* case of privilege; some of the material may well be partisan in nature, but none of it suggests to me that Members are being intimidated in a manner that constitutes a breach of privilege.

Secondly, as Members well know from previous rulings on this subject, it is for the courts – not the Speaker – to interpret laws like the Public Service Act although I am sure that the Chair of Management Board will take all appropriate steps to deal with the allegations.

Thirdly, the right of Members to government information is limited to what the Standing Orders provide. The Standing Orders do not provide Members with a right to information – reliable or otherwise – from a government website.

Fourthly, as for the distribution of partisan materials via the legislative mail service, I am more concerned with the content of the material than with the method of delivery.

And finally, Members will know that there are many rulings to the effect that the Speaker cannot prevent the government from communicating an allegedly partisan, political message using public funds.

However, I would not want to leave the impression that I am untroubled by what I have read in the material submitted by the Member for Windsor-St. Clair. I note that previous Speakers have expressed concerns about the government's use of electronic and print media to communicate its agenda. For example, on January 22, 1997, Speaker Stockwell stated the following:

"At this point in my ruling, I want to express some personal concerns about the propriety of public funds being used to advocate, through advertising, a particular position on a matter that is before the House. Let me be clear: I am not speaking here about politically paid for advertising, but rather about funds that are contributed to by every Ontarian regardless of his or her political view. Personally, I would find it offensive if taxpayer dollars were being used to convey a political or partisan message. There is nothing wrong with Members debating an issue and influencing public opinion; in fact, it is part of our parliamentary tradition

to do so. But I feel that it is wrong for a government to attempt to influence public opinion through advertising that is paid for with public funds – which, I might add, are not available to the opposition – instead of through debate in the House."

My own personal concern about the information before me is quite simple, and perhaps I am being too obvious about this, but let me say it anyway. Publicly funded websites as opposed to politically funded websites should be used to communicate with the public in a fair, reasonable and meaningful way. A line is crossed when a government uses a website, or for that matter any publicly funded mechanism as a vehicle to launch a provocative attack on any Member of this House.

And so, while a *prima facie* case of privilege has not been made out, in my view this is an inappropriate use of government websites, and I hope that all Members clearly understand the difference between what is a publicly funded and what is a politically funded communication, and that they will use each accordingly when communicating to Ontarians.

**Postscript (Norman Sterling, Government House Leader):** I heard your ruling with regard to there not being a formal breach of privilege. I do want to apologize on behalf of those ministers who had Web sites which appeared to be politically motivated press releases which were reproduced on those Web sites. This will not happen in the future. We agree with your synopsis with regard to the use of this kind of material. It should be on our party Web site and it should not be on our provincial ministry Web sites.

## Format of the Estimates, April 4, 2000, Speaker Bev Harrison, Legislative Assembly of New Brunswick



**Background:** On March 29, 2000, Bernard Richard raised a point of privilege claiming that the Main Estimates introduced by the Government along with the Budget, lacked the traditional comparative data respecting previous years expenditures and essential comparative data for full-time equivalent positions.

**Ruling(Speaker Bev Harrison):** Standing Rule 9 (2) states that the Speaker shall not accept such a motion unless satisfied that there is a *prima facie* case that a breach of privilege has been committed and that the matter is being raised at the earliest opportunity. To satisfy the "earliest opportunity requirement", a question of privilege must be raised at the time the event occurred or the next sitting day. The Main Estimates were tabled in the House last Tuesday and the Member rose on the question of privilege the next sitting day which, in my view, was the earliest opportunity.

Before proceeding to the substance of the question of privilege, I wish to comment briefly on the points of order raised when I sought the advice of other Members. It is

important to explain the process which I attempted to follow and which previous Speakers of this House and other jurisdictions consistently follow. When a Member rises on a matter of privilege, the Chair hears the complaint, which should be stated concisely and briefly. If another Member is directly implicated in this matter of privilege, the Chair may permit that Member to make a comment. The role of the Speaker is to determine whether there is a *prima facie* case of privilege, i.e., whether the matter should have priority of debate (or consideration). The Speaker may seek the advice of other Members on the matter, to assist in determining whether the complaint infringed on the Members' ability to perform their parliamentary duties. However, other Members may only speak on the question with the leave of the Chair. I thank the Members for their comments.

At this stage, it may be useful to review the nature of parliamentary privilege. Parliamentary privilege relates to the rights and immunities that belong to Parliament, its Members and others, which are essential for the operation of Parliament. These rights and immunities allow the Legislature to meet and carry out its proper constitutional role, allow Members to discharge their responsibilities to their constituents and allow others involved in the parliamentary process to carry out their duties and responsibilities without obstruction or fear of prosecution.

Privileges are generally categorized under five headings which are: freedom of speech, freedom from arrest in civil actions, exemptions from jury duty, exemptions from attendance as a witness, and freedom from molestation.

