



# Speaker's Ruling

## Premature disclosure of government policy, Speaker Hugh Edighoffer, June 10, 1986, Legislative Assembly of Ontario

**Background:** On June 5, the member for Brantford, Phil Gillies, rose on a question of privilege with respect to details of legislation being published in the press before disclosure in the House. He stated further that an assistant to the Minister of the Environment and an assistant to the Minister of Housing had violated their oaths of secrecy and had demonstrated contempt for the House by discussing with the press details of actual legislation and amendments before the House. When a question of privilege is raised, the duty of the Speaker is to decide whether the allegation could reasonably be held to constitute a breach of privilege and therefore take precedence over other business of the House. It is not the Speaker's duty to decide whether in fact a breach of privilege has been committed. This is a question that can only be decided by the House.



*Hon. Hugh Edighoffer*

**Ruling (Speaker Hugh Edighoffer):** It may be useful for me to review the nature of parliamentary privilege once again. 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, members to discharge their responsibilities to their constituents and others properly involved in the parliamentary process to carry out their duties and responsibilities without obstruction or fear of prosecution.

The principal privileges of the House and of its members include the right of free speech in Parliament, immunity of members from arrest, detention or molestation for civil causes during defined periods, immunity of members from the obligation to serve on juries, the power to regulate its own proceedings by establishing its own rules or standing orders, the power to order the attendance at the Bar of the House of persons whose conduct has been brought before the House on a

matter of privilege, and the power to order the arrest and imprisonment of persons guilty of contempt or breach of privilege.

It is only in very rare circumstances that a legitimate matter of privilege can come before the House on the basis of the real, accepted and traditional definition of parliamentary privilege.

I understand the distinction the honourable member has attempted to draw between announcing outside the House policy statements on matters which are not before the House and statements with respect to specific amendments and legislation before the House. However, it is clear from the precedents in this House and in other jurisdictions that parliamentary privilege does not extend and never has extended to requiring policy statements or announcements to be made in the House, regardless of the importance of the subject.

Further, in examining the authorities, no case can be found which indicates it is a breach of privilege for representatives of the government to publicly announce its intentions with

respect to amendments and legislation before the House. Indeed, this practice has been a common occurrence for many years. As my predecessors and I have stated, such statements made outside the House may constitute a legitimate grievance and certainly involve a question of courtesy to or respect for the House and its members. However, they do not constitute a question of privilege.

Whether or not assistants to the ministers of the Environment and Housing have violated their oaths of secrecy is a question of law and a question upon which the authorities indicate the Speaker shall not give a decision. Such a matter could, if justified, give rise to an action in the courts.

In finding that no *prima facie* case of privilege exists, further consideration by the House is not prevented. The effect is to refuse precedence to this matter as a question of privilege, but it does not prevent the presentation of this matter in different circumstances, for example, by setting it down as a private member's notice of motion.