



INTERIM REPORT

OF THE

COMMITTEE OF PRIVILEGES OF THE HOUSE
OF REPRESENTATIVES

FOURTH SESSION (2018/2019)

ELEVENTH PARLIAMENT

TOGETHER WITH THE MINUTES OF PROCEEDINGS
AND RECORD OF EVIDENCE

ALLEGATION OF THREATENING WORDS

Laid before the House of Representatives and Ordered to be printed

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INTRODUCTION

ESTABLISHMENT OF COMMITTEE OF PRIVILEGES

1. Standing Order 89(1) of the House of Representatives establishes the Committee of Privileges, among others, as a permanent Sessional Select Committee of the House of Representatives.

2. Standing Order 89(2) provides for the appointment of Members to Sessional Select Committees and states that –

“(2) Members of the House appointed to Sessional Select Committees shall be chosen by the Speaker as soon as possible after the beginning of each session.”

3. By virtue of Standing Order 92(2), the Speaker of the House is a Member and the Chairman of the Committee of Privileges.

4. On Friday November 02, 2018¹ the following persons were chosen by the Speaker to also serve on the Committee of Privileges (your Committee), Fourth Session (2018/2019) of the Eleventh Parliament, in accordance with Standing Order 89 (2) of the House of Representatives

Mrs. Camille Robinson-Regis	Member
Mr. Stuart Young	Member
Mr. Fitzgerald Hinds	Member
Mr. Rudranath Indarsingh	Member
Mr. Barry Padarath	Member,

three of the members chosen served on your Committee during the 3rd Session of the 11th Session².

TERMS OF REFERENCE

5. Standing Order 92 (1) provides that “the Committee of Privileges shall have the duty of considering and reporting on any matter referred to it by the Speaker or the House, in accordance with Standing Order 32 (Privilege Matters) and Standing Order 55 (Order in the House and in

¹ HOR Debate, Friday 02nd November, 2018 at page 2
<http://www.ttparliament.org/hansards/hh20181102.pdf>

² Mrs. Camille Robinson-Regis, Mr. Fitzgerald Hinds and Mr. Stuart Young were returned to the Committee.

Committee). It shall be the duty of the Committee to consider any matter so referred and to report thereon to the House”.

MATTER RAISED AND REFERRED

6. On Tuesday October 16, 2018, the Leader of the House moved a privilege motion alleging that the Member for Oropouche East committed contempt of the House on the following grounds:

- i. He uttered threatening words to a Member of the House (*Da is why snake have some lead for you*); and
- ii. He brought the House and its proceedings into ridicule and public odium.” (**The Motion is attached at Appendix I**)

7. On Friday November 02, 2018, the Speaker of the House ruled that a *prima facie* case had been made out and referred the matter to the Committee of Privileges for consideration and report (**The Ruling is attached at Appendix II**).

8. At a sitting of the House of Representatives held on Friday November 30, 2018, Dr. Nyan Gadsby-Dolly, and Mr. Anthony Garcia, were appointed to serve temporarily on your Committee during consideration of the matter referred as substitutes for Mrs. Camille Robinson-Regis, and Mr. Fitzgerald Hinds, respectively, who recused themselves from the matter at the first meeting of your Committee.

SECRETARIAT SUPPORT

9. The following persons provided secretarial support:

- Mrs. Jacqui Sampson-Meiguel - Secretary to the Committee.
- Ms. Keiba Jacob - Assistant Secretary
- Mr. Brian Lucio - Assistant Secretary
- Ms. Simone Yallery - Legal Officer I
- Ms. Sheranne Samuel – Procedural Clerk Assistant
- Ms. Kimberly Mitchell – Procedural Clerk Assistant

MEETINGS OF THE COMMITTEE

10. Your Committee held three (3) meetings to consider and deliberate on the matter referred.

The dates of the meetings are as follows:

- i. First Meeting – Friday November 30, 2018
- ii. Second Meeting – Monday January 07, 2019
- iii. Third Meeting – Tuesday February 05, 2019

The Minutes of the Meetings are attached at **Appendix III**.

11. At its First meeting, your Committee discussed the following:

- the mandate of your Committee;
- the applicable Standing Orders;
- the procedures to be followed;
- the composition of your committee;
- the issue of bias;
- whether your Committee was required to cease deliberations pending the outcome of an external investigation by a Law Enforcement agency;
- the documentation and material to be used in its deliberations; and
- a proposed work plan.

12. In keeping with previous precedent, Mrs. Camille Robinson-Regis, and Mr. Fitzgerald Hinds, recused themselves from participating in the consideration of the matter referred, insofar as -

- a) Mrs. Robinson-Regis was the Member who raised the complaint via a Privileges Motion before the House; and
- b) Mr. Hinds was directly involved in the matter.

13. In accordance with the practice of Committees of Privileges of the House of Representatives, your Committee agreed that as an essential first step, the Member for Oropouche East be invited to be heard in response to the allegation made against him. There was general consensus with the following procedures and practices of the Committee of Privileges-

- a) Your Committee's business would be conducted in a professional and non-partisan manner;
- b) Your Committee will follow procedures that can withstand public scrutiny;
- c) Verbatim Notes of evidence will be part of your Committee's record and be subject to the examination and scrutiny of the public and others, upon presentation of our Report; and
- d) That all disagreements, if any, would be resolved *in camera* and not in the presence of witnesses;
- e) Natural justice will be maintained and as such, the Member whose actions are being considered will be invited to be heard;
- f) The Member would be permitted to be accompanied by two advisors for the matter;
- g) During hearings (when evidence is being taken), the Member will be invited to be in attendance in accordance with established practice, but will not be able to participate; and
- h) The Member shall not be permitted to attend the deliberations of your Committee.

14. Your Committee held its Second meeting on Monday January 7, 2019. The purpose of this meeting was to consider procedural issues and to allow the Member for Oropouche East an early opportunity to be heard.

15. At the start of this meeting, members discussed the question as to whether your Committee was obliged to cease deliberations pending the outcome of an external investigation (by the TTPS).

16. Your Committee considered the advice submitted, on request, by the Legal Unit of the Office of the Parliament dated Thursday December 06, 2018 (**Appendix IV**). The advice referenced the May's Parliamentary Practice, as well as precedents in this jurisdiction and in the United Kingdom when Select Committees have conducted inquiries in parallel with regulatory and/or criminal investigations into the same events and issues. The advice noted that Committees should exercise their undoubted powers very carefully in view of issues such as confidentiality, potential prejudice to extant litigation, legal professional privilege and the privilege against self-incrimination. The advice was accepted by your Committee.

Member for Oropouche East invited to be heard

17. At the end of the private deliberations, the Member for Oropouche East joined the meeting accompanied by Mr. Gerald Ramdeen, Attorney at Law and Mr. Wade Mark.

18. Your Committee confirmed that the Member for Oropouche East received your Committee's letter and accompanying documents namely –

- Hansard Extract of the contribution made by the Member for Diego Martin North/East on Wednesday October 10, 2018.
- Hansard Report of the Privilege Motion raised by the Member for Arouca/Maloney on Monday October 15, 2018.
- Hansard Report of the Ruling by the Speaker of the House on Friday November 2, 2018.

19. The Member for Oropouche East informed your Committee that he had concerns regarding the legality of the appointment to and the constitution of your Committee and stated his intention to provide a written submission outlining his concerns.

20. Your Committee held its Third meeting on Tuesday February 05, 2019. Once again, the purpose of this meeting was to deal with procedural issues and to allow the Member for Oropouche East an opportunity to be heard. However the agenda could not be followed for reasons set out in paragraphs 21 to 27 below.

21. By letter to the Speaker of the House dated January 28, 2019, the Member for Oropouche East raised three (3) points of objection to appearing before your Committee:

- i. that the Committee of Privileges was not appointed or constituted at the time of the referrals;
- ii. that there exists no power to appoint temporary members of the Committee of Privileges, and therefore your Committee is improperly constituted; and
- iii. that a member of a Committee against whom an allegation of bias is raised ought not to serve on a Committee.

22. The Speaker responded to the Member for Oropouche East, by letter from the Clerk of the House dated January 31, 2019.

Constitutional Matter filed and application made for an injunction

23. At or around 8:00 a.m. on February 05, 2019, a bundle of documents was delivered to the Speaker's Office relating to a Constitutional motion filed at the High Court, San Fernando on February 04, 2019 by the Member for Oropouche East. In his claim, the Member for Oropouche East alleges that your Committee as constituted infringes his constitutional rights to a fair hearing. He is also challenging the authority of the House to appoint temporary or substitute members to a Committee. He further applied for an injunction against your Committee continuing hearings into the matters referred to your Committee by the House of Representatives until the determination of his matter before the Court. The application for an injunction was heard on February 05, 2019 at 9:00 a.m. in the High Court, San Fernando. (The Constitutional Motion and Affidavit are attached at **Appendix V**)

24. Your Committee is advised that no pre-action protocol letter was issued and no Member of your Committee had been named as a party in the proceedings. Additionally, the issues raised in the claim differed materially from what the Member for Oropouche East outlined in his letter to the Speaker of the House of January 28, 2019. Most notably, the allegation of bias was extended to the Chairman of your Committee.

25. Your Committee wishes to inform the House of Representatives that Senior Counsel appeared amicus curiae on behalf of the Speaker of the House at the hearing before the Court on February 5, 2019. The Speaker, through Senior Counsel, gave an undertaking to the Court that hearings into the matter referred by the House of Representatives to your Committee would be adjourned, until the hearing of the application or further order.

26. The court did not grant an injunction to prohibit your Committee from meeting.

27. It was made clear to the Court through Senior Counsel, that your Committee would meet to decide on the course of action it would take but it would not embark on hearings into the allegations of whether the Claimant committed a contempt until the hearing of the application before the Court or further order.

28. Your Committee acknowledges that the Speaker of the House is the guardian of the privileges, rights and immunities of the House of Representatives. We therefore consider that it was the duty of the Speaker to act in the interest of the House of Representatives as a whole and with regard to the comity of relations that exists between the Legislature and the Judiciary.

Report

29. In relation to the matter alleging that the Member for Oropouche East committed contempt of the House of Representatives on the following grounds:

- i. He uttered threatening words to a Member of the House (*Da is why snake have some lead for you*); and
- ii. He brought the House and its proceedings into ridicule and public odium,

your Committee wishes to report that it has endorsed the undertaking given to the Court by the Speaker of the House and Chairman of your Committee that it would not embark on hearings into the allegations of whether the Member for Oropouche East committed a contempt of the House until the hearing of the application before the Court or further order.

30. Your Committee also wishes to report its disappointment that upon receipt of the ruling of the Speaker on the matters about which he raised concerns, the Member for Oropouche East did not return to your Committee to outline his further concerns or disagreements, which he was fully entitled to do.

31. It is even more disconcerting to your Committee that the Member did not first refer his objections to the House of Representatives consistent with parliamentary practice and procedure in all jurisdictions. Instead, the Member for Oropouche East misguidedly invited the High Court to consider issues touching and concerning matters related to the House of Representatives, without fully exploring all options available to him consistent with parliamentary practice and procedure. This House of Representatives has, since its inception, jealously guarded matters which are central to its inherent jurisdiction to regulate itself and its members, namely:

- The jurisdiction of the Committee of Privileges;
- The composition of a Committee of this House;

- The capacity of this House to appoint substitutes to a Committee in place of Members who have recused themselves;
- The capacity of the Speaker of this House to rule on procedural matters referred to him/her in accordance with the powers conferred on the Speaker of this House by the House of Representatives itself through its Standing Orders.

32. Attached at **Appendix VI** are written statements by two Members explaining the reasons for their dissent from the Report.

Respectfully submitted,

Sgd.
Mrs. Bridgid Annisette-George
Chairman

Sgd.
Dr. Nyan Gadsby-Dolly
Member

Mr. Rudranath Indarsingh
Member

Sgd.
Mr. Anthony Garcia
Member

Sgd.
Mr. Stuart Young
Member

Mr. Barry Padarath
Member

Motion

COMMITTEE OF PRIVILEGES

(MEMBER FOR OROPOUCHE EAST)

The Minister of Planning and Development (Hon. Camille Robinson-Regis): [*Desk thumping*]
Madam Speaker, I beg to move a Motion of Privilege. Madam Speaker, in accordance with Standing Order 32, I seek your leave to raise a question of privilege in the House today, the first opportunity available for me to do so.

Madam Speaker, on October 10, 2018, earlier in this sitting of the House before the commencement of the Standing Finance Committee and during the reply of the Minister of Finance, the Member for Oropouche East made the following statement directed to the Member for Laventille West, and I quote:

“Da is why Snake have some lead for you.”

Madam Speaker, this phrase “have some lead for you”, Madam Speaker, is considered a grievous threat to life and limb as it is a phrase familiar to persons involved in law enforcement and frequently used by those engaged in nefarious criminal activities. Madam Speaker, unfortunately, the vulnerable youth in our society also know the meaning of this phrase, because it is common jargon in some popular music. Madam Speaker, even more troubling, is the fact that an individual known as “Snake” has been convicted of assault against the Member for Laventille West in the conduct of his parliamentary duties in his constituency.

It is for this reason, Madam Speaker, that immediately after the utterances by the Member for Oropouche East, there was an uproar in this House. All of this was carried live on the Parliament Channel, radio station and live video feeds. Madam Speaker, you will recall that the Member for Laventille West immediately rose in protest, and sought to direct your attention to the offence. By his reaction, it was clear that he apprehended a threat to his life [*Laughter*] from the words of the Member for Oropouche East—

Madam Speaker: I would expect every Member of this House to display a certain decorum at all

times. If any Member finds matters conducted here are matters of some joke they are free to go outside, have their fun and come back in.

4.10 p.m.

Hon. C. Robinson-Regis: Thank you, Madam Speaker. By his reaction, it was clear that he apprehended a threat to his life from the words of the Member for Oropouche East and drew this to the immediate attention of the Chair and the House. However, the menacing words of the Member for Oropouche East were not heard by the Chair, but they were in fact heard by several Members in this House and recorded in the *Hansard*. They have also been covered and repeated in newspapers and on social media.

Madam Speaker, as Leader of the House, I will be the first to admit that crosstalk is common in all parliamentary assemblies and has been a feature of our House, but such crosstalk has boundaries. With respect to volume, you, Madam Speaker, call the House to order and regularly remind us not to disrupt the tenor of the debate. However, with respect to content, such crosstalk never falls below the standard expected of all hon. Members in this House until now.

Madam Speaker, for a Member of this House to tell another Member during proceedings of this House, in the very face of this House and in the hearing of Members and others that, and I again quote:

“Da is why Snake have some lead for you.”

—amounts to a serious indignity to this House and an apparent threat to a Member.

Madam Speaker, Erskine May states that:

“It is...impossible to list every act which might be considered...a contempt”—of this House.

However, any act which has the tendency to directly or indirectly obstruct or impede the House or any of its Members or officers in the performance of their functions, or can produce this result by bringing the House into ridicule, may constitute a contempt.

Further, Madam Speaker, Any act of disorderly or indecent conduct within the precincts of this House can be treated as a contempt, particularly if it is beneath the dignity of this House and brings the House into public odium.

Madam Speaker, the conduct of the Member for Oropouche East in this regard, one, amounts to a threat to the life of another Member of this House, whether direct or indirect.

Madam Speaker, it is a serious indignity to this House and brings it into public odium.

Madam Speaker, this House has a duty to protect itself, and it is against this background that I raise this matter as one concerning a matter of privileges and ask for it to be sent to the Committee of Privileges for consideration and report.

I beg to move. [*Desk thumping*]

Ruling

COMMITTEE OF PRIVILEGES (MEMBER FOR OROPOUCHE EAST)

Madam Speaker: Hon. Members, I am now ready to rule on the matter of privilege raised by the Member for Arouca/Maloney and Leader of the House. It is well accepted that Parliament is a place of strong opinions and emotions, and when tempers flare Members can get carried away. However, I am consoled that generally our House is more orderly and decorous than many others. On October 10, 2018, the Member for Oropouche East and Member for Laventille West engaged in a heated exchange. As I advised on that day, I did not hear the exchange. However, I have since viewed the video footage and listened to the audio recorded during the sitting. I have also read the *Hansard* of the proceeding. The words attributed to the Member for Oropouche East in the matter raised by the Member for Arouca/Maloney were in fact uttered. I am also satisfied that several other Members heard the comment.

Hon. Members, the matter raised by the Member for Arouca/Maloney is a serious one as there is absolutely no place for violent or threatening language in this House. The statement made, when placed in context as presented by the Member for Arouca/Maloney, clearly falls below the esteem and dignity of the Parliament. Therefore, having considered the submission made by the Member for Arouca/Maloney and in accordance with my duty under Standing Order 32(4), I rule that a prima facie case of breach of privilege has been made out and that the incident requires further consideration by the Committee of Privileges. I so rule.

Minutes of Proceedings

**MINUTES OF THE 1ST MEETING
OF THE COMMITTEE OF PRIVILEGES OF THE HOUSE OF
REPRESENTATIVES
HELD IN THE ARNOLD THOMASOS (EAST) MEETING ROOM, LEVEL 6,
OFFICE OF THE PARLIAMENT, TOWER D, 1A WRIGHTSON ROAD,
PORT OF SPAIN
ON FRIDAY NOVEMBER 30, 2018**

PRESENT

Mrs. Bridgid Annisette-George	Chairman
Mrs. Camille Robinson-Regis	Member
Mr. Stuart Young	Member
Mr. Fitzgerald Hinds	Member
Mr. Rudranath Indarsingh	Member
Mr. Barry Padarath	Member

Secretariat

Mrs. Jacqui Sampson-Meiguel	Secretary
Ms. Keiba Jacob	Assistant Secretary
Ms. Angelique Massiah	Legal Officer
Mr. Brian Lucio	Graduate Research Assistant

CALL TO ORDER

1.1 The Chairman called the meeting to order at 10:18 a.m. and welcomed Members present.

CHAIRMAN'S INTRODUCTORY COMMENTS

2.1. After brief introductions, the Chairman advised as follows:

- i) The Committee's business would be conducted in a professional and non-partisan manner;
 - j) As a quasi-judicial body, the Committee must follow procedures that can withstand public scrutiny;
 - k) That the Verbatim Notes of evidence will be part of the Committee's record and be subject to the examination and scrutiny of the public and others, upon presentation of the Committee's Report; and
 - l) That all disagreements, if any, would be resolved *in camera* and not in the presence of witnesses.
- 2.2. The Chairman informed Members that in accordance with Appendix III of the Standing Orders of the House of Representatives and consistent with practice:
- a) Natural justice will be maintained and as such, the Member whose actions are being considered will be invited to be heard;
 - b) The Member would be permitted to be accompanied by two advisors for each matter;
 - c) During hearings when evidence is being taken, the Member will be invited to be in attendance in accordance with established practice, but will not be able to participate; and
 - d) The Member shall not be permitted to attend the deliberations of the Committee.
- 2.3. The Chairman reminded Members that Verbatim Notes will be taken while the Committee is receiving evidence and not while the Committee is deliberating *in camera*. The Chairman further reminded Members that Minutes would be available for all meetings of the Committee and circulated for Members' consideration

MATTERS REFERRED

- 3.1 The Chairman reminded Members that the matters referred to the Committee of Privileges, were as follows -
1. An allegation that on Tuesday October 9, 2018, the Member for Oropouche East committed contempt of the House on the following grounds:
 - a. He willfully and intentionally misled the House;
 - b. He made injurious allegations against the Member for Diego Martin West when no substantive motion was before the House; and
 - c. He undermined the dignity of the House by abusing the privilege of freedom of speech.
 2. An allegation that on Wednesday October 10, 2018, the Member for Oropouche East committed contempt of the House on the following grounds:

- a. He uttered threatening words to a Member of the House; and
- b. He brought the House and its proceedings into ridicule and public odium.

DISCUSSION ON THE WAY FORWARD

4.1. Preliminary matters involving the work of the Committee were discussed during which -

- a) Mr. Hinds recused himself from participating in the second matter referred to the Committee insofar as the matter touched and concerned him;
- b) Mrs. Robinson-Regis recused herself from participating in both matters referred to the Committee having raised the motions of privileges in the House;
- c) Mr. Padarath expressed the view that a Member who had already publicly stated a position on a matter before the Committee (in this case, during a debate in the House) should also recuse himself from the Committee's consideration of the said matter. Mr. Indarsingh agreed. After a brief discussion, the Chairman explained that unless a member was directly connected or involved in a matter, it was accepted parliamentary practice that a member may recuse himself/herself only at his/her volition once they believe themselves incapable of discharging their duties in a fair, logical and rational manner;
- d) Mr. Padarath sought guidance as to whether the Committee ought to proceed with its consideration of a matter while a concurrent investigation was being pursued by a law enforcement agency of the State. The Chairman instructed the Secretariat to conduct research on the question raised by Mr. Padarath;
- e) Mr. Padarath also sought guidance as to whether a matter could be referred to the Committee of Privileges before Members were appointed to the Committee. The Chairman responded in the affirmative and explained that the Committee of Privileges was established pursuant to Standing Order 89 of the House of Representatives at the commencement of each Session of Parliament with the Speaker as Chairman. She added that the full membership is completed at the earliest opportunity after the commencement of the session.

4.2 The Chairman referred Members to the documents circulated to them by the Secretariat, namely:

- a) Hansard Report of the contribution made by the Member for Oropouche East on Tuesday October 9, 2018;

- b) Hansard Report of the Privilege Motion raised by the Member for Arouca Maloney on Wednesday October 10, 2018;
 - c) Hansard Report of the Ruling by the Speaker of the House on Monday October 15, 2018;
 - d) Hansard Extract of the contribution made by the Member for Diego Martin North/East on Wednesday October 10, 2018;
 - e) Hansard Report of the Privilege Motion raised by the Member for Arouca/Maloney on Monday October 15, 2018; and
 - f) Hansard Report of the Ruling by the Speaker of the House on Friday November 2, 2018.
- 4.3. The Chairman instructed the Secretariat to also circulate to Members the learning from May's Parliamentary Practice with respect to Committees of Privileges.
- 4.4. Members agreed that the Committee would generally meet on Tuesdays but may meet on any other day as determined by the Committee.
- 4.5. The Committee agreed that the Secretary to the Committee should write to the Member whose actions were being considered to:
- a) invite him to be heard;
 - b) offer guidance on his right to be allowed two (2) advisors (per matter) to accompany him; and
 - c) advise on any other procedural matters.

CORRESPONDENCE

- 5.1. Members noted the following items of correspondence which were circulated:
- a) a letter to the Secretary of the Committee from the Member for Oropouche East dated November 29, 2018;
 - b) the response from the Secretary to the Member for Oropouche East dated November 29, 2018'; and

- c) a letter from Attorney-at-law Mr. Aaron Mahabir to the Secretary dated November 30, 2018.

ADJOURNMENT

- 6.1. There being no other business, the Chairman thanked Members for attending.
- 6.2. The meeting was adjourned to Tuesday December 11, 2018 at 2:00 p.m. during which the Member whose actions were being considered would be heard.
- 6.3. The adjournment was taken at 12:02 p.m.

I certify that the Minutes are true and correct.

Chairman

Secretary

December 27, 2018

**MINUTES OF THE 2ND MEETING
OF THE COMMITTEE OF PRIVILEGES OF THE HOUSE OF
REPRESENTATIVES
HELD IN THE ARNOLD THOMASOS (EAST) MEETING ROOM, LEVEL
6,
OFFICE OF THE PARLIAMENT, TOWER D, 1A WRIGHTSON ROAD,
PORT OF SPAIN
ON MONDAY JANUARY 07, 2019**

PRESENT

Mrs. Bridgid Annisette-George	Chairman
Dr. Nyan Gadsby-Dolly	Member (<i>substitute for Mrs. Camille Robinson-Regis</i>)
Mr. Anthony Garcia	Member (<i>substitute for Mr. Fitzgerald Hinds</i>)
Mr. Stuart Young	Member
Mr. Rudranath Indarsingh	Member
Mr. Barry Padarath	Member

Secretariat

Mrs. Jacqui Sampson-Meiguel	Secretary
Mr. Brian Lucio	Assistant Secretary
Ms. Simone Yallery	Legal Officer I
Ms. Sheranne Samuel	Procedural Clerk Assistant
Ms. Kimberly Mitchell	Procedural Clerk Assistant

CALL TO ORDER

1.1 The Chairman called the meeting to order at 2:15 p.m. and welcomed Members present.

ANNOUNCEMENTS BY THE CHAIRMAN

2.1 The Chairman welcomed substitute Members Dr. Nyan Gadsby-Dolly and Mr. Anthony Garcia to the Committee and wished Members and staff a Happy New Year.

**CONSIDERATION OF MINUTES OF THE FIRST MEETING HELD ON MONDAY
JANUARY 07, 2019:**

3.1 The Chairman invited Members to consider the Minutes page-by-page and enquired whether there were any amendments.

3.2 A discussion ensued during the consideration of the Minutes.

3.3 There being no amendments or omissions, a motion for the confirmation of the Minutes was moved by Mr. Young and seconded by Dr. Gadsby-Dolly.

MATTERS ARISING FROM THE MINUTES

4.1. **Paragraph 4.1 a) and b), page 3:**

- i. The Chairman reminded Members of the following:
 - a. Dr. Gadsby-Dolly was appointed as a substitute Member to the Committee in lieu of Mrs. Robinson-Regis who recused herself from the two matters before the Committee; and
 - b. Mr. Garcia was appointed as a substitute Member to the Committee in lieu of Mr. Hinds who recused himself from the second matter referred to the Committee.

4.2. **Paragraph 2.1 c), page 2:**

Mr. Indarsingh enquired into the availability of Verbatim Notes of the Committee's deliberations. The Chairman reminded Members that Verbatim Notes will only be taken when the Committee is receiving evidence and not when the Committee is deliberating. After some discussion, the Secretary referred the Committee to Standing Order 112 (16) of the House of Representatives and explained that pursuant to this Standing Order, Verbatim Notes are only required to be taken when the Committee is receiving evidence and that there is no similar requirement for the taking of verbatim notes when the Committee is deliberating. Mr. Padarath and Mr. Indarsingh registered their disagreement with the Secretary's interpretation of Standing Order 112 (16).

4.3. **Paragraph 4.1 d), page 3:**

- i. The Chairman advised that research was undertaken by the Committee's Secretariat on whether the Committee is required to cease deliberations pending the outcome of an external investigation. The Opinion was circulated.
- ii. Mr. Padarath and Mr. Indarsingh disagreed with the contents of the Opinion. Mr. Young, Mr. Garcia and Dr. Gadsby-Dolly expressed their concurrence with the position of the Opinion.

4.4. **Paragraph 4.3 d), page 4:**

The Chairman reminded Members that the learning from May's Parliamentary Practice with respect to Committees of Privileges was circulated to Members by email dated December 06, 2018.

4.5. Paragraph 4.5, page 4:

The Chairman advised Members that by letter dated December 06, 2018, the Secretariat, wrote to the Member whose actions were being considered, to invite him to be heard and offer guidance on his right to be allowed two (2) advisors (per matter) to accompany him.

PRE-HEARING DISCUSSIONS

5.1. Mr. Padarath expressed the view that Mr. Hinds should not be allowed to hear evidence and deliberate on the first matter referred to the Committee when the Member is a principal subject in the second matter.

5.2. The Chairman proposed that the Committee proceed with the second matter referred to the Committee, in which Mr. Hinds was recused. A discussion ensued on the second matter. It was suggested that upon the conclusion of the Committee's deliberation, Mr. Hinds would replace Mr. Garcia to hear evidence and deliberate on the first matter. After some discussion, the Committee agreed by a division of 3 to 2 that it had no objection to Mr. Hinds being permitted to hear evidence and deliberate on the first matter.

5.3. Mr. Padarath enquired whether the Member for Oropouche East was aware that he was required to give evidence on both matters referred to the Committee. The Chairman confirmed that the Member for Oropouche East was made aware of the requirement and proceeded to read into the record, the contents of letters dated December 6, 2018 and December 12, 2018 from the Secretary of the Committee addressed to the Member. The Chairman instructed the Secretariat to circulate the aforementioned correspondence to the Members of the Committee.

5.4. The Chairman proceeded on a second occasion to invite Members to discuss the approach to be taken when receiving evidence from the Member for Oropouche East.

5.5. The Chairman provided guidelines on the hearing of evidence.

SUSPENSION OF MEETING

6.1. At 3:53 p.m., the Chairman suspended the meeting to facilitate the entrance of the Member for Oropouche East and his advisors.

RESUMPTION OF MEETING

7.1 The meeting resumed at 3:56 p.m.

FIRST HEARING

8.1 The following persons joined the meeting:

- i. Dr. Roodal Moonilal, MP - Member for Oropouche East;
- ii. Mr. Gerald Ramdeen – Advisor; and
- iii. Mr. Wade Mark – Advisor.

8.2 The Chairman welcomed the Member for Oropouche East and his advisors and introductions were exchanged.

8.3 The Chairman advised that:

- i. advisors cannot address the Committee, only the Member for Oropouche East would be allowed to do so; and
- ii. the hearing was being held in camera and the work of the Committee must not be made public before the Committee reports to the House.

8.4 The Chairman read into record, the following matter referred to the Committee:

“An allegation that the Member for Oropouche East committed contempt of the House during a debate on October 10, 2018 on the following grounds:

- i. You uttered threatening words to a Member of the House; and**
- ii. You brought the House and its proceedings into ridicule and public odium.”**

The Chairman then invited the Member to make an opening statement.

8.5 The Member for Oropouche East informed the Committee that he had been present for 2:30pm, as was requested of him and had an inescapable engagement for 4:30 p.m.

8.6 The Member for Oropouche East acknowledged receipt of letters dated December 06, 2018 and December 12, 2018 and sought clarification on which matter the Committee intended to consider first. The Chairman advised the Member for Oropouche East that, as stated in the aforementioned correspondence, he was invited to give evidence on both matters:

- (i) an allegation that the Member committed a contempt of the House during a debate on October 9, 2018 (‘the First Matter Referred’); and
- (ii) an allegation that the Member for Oropouche East committed contempt of the House during a debate on October 10, 2018 (‘the Second Matter Referred’).

8.7 The Chairman further advised that the Committee intended to initially hear evidence on the Second Matter Referred and thereafter the First Matter Referred.

8.8 The Member for Oropouche East sought clarification on the following:

- i. whether the matters would be considered sequentially or concurrently; and
- ii. whether the Members present would consider both matters referred to the Committee.

The Chairman advised the Member that the matters would be considered concurrently and the Committee's composition would differ for each matter, given that there have been recusals.

8.9 The Member for Oropouche East requested that consideration be given to the hearing of matters sequentially and not concurrently due to the gravity of the matters before the Committee. The Member for Oropouche East further advised the Committee of his intention to make a written submission on his request. The Chairman advised the Member that while precedent directs that a Committees of Privilege may consider matters concurrently, the Committee will await the Member's written submission.

8.10 The Member for Oropouche East submitted that the Committee was improperly and possibly illegally constituted. The Member advised that a written submission will be made outlining his concerns. The Chairman advised that the Committee would consider the Member's submission upon receipt.

8.11 The Chairman invited the Member for Oropouche East to make an opening statement concerning the Second Matter Referred.

8.12 The Member for Oropouche East declined the Chairman's offer to make an opening statement in relation to the allegation that the Member for Oropouche East committed contempt of the House during a debate on October 10, 2018.

8.13 The Member for Oropouche East advised that he intended to send his written submissions on the aforementioned concerns by January 21, 2019.

8.14 The Member for Oropouche East also informed the Committee that three documents were sent to the Committee. After a short discussion, the Chairman advised the Member that any correspondence to the Committee should preferably sent by email and not by WhatsApp.

SUSPENSION

9.1 At 4:23 p.m., the Chairman suspended the meeting to allow for the departure of the Member for Oropouche East and his advisors and thereafter resumed proceedings.

POST-HEARING DISCUSSION

10.1 Mr. Indarsingh sought clarification on the omission of one of the grounds of the breach of privilege, identified by the Leader of the House in the privilege motion submitted on October 10, 2018. The Chairman advised that the ground of “presenting false documents” is considered in practice to be a facet of “misleading the House”.

ADJOURNMENT

11.1 There being no other business, the Chairman thanked Members for attending and adjourned the meeting to a date to be fixed.

11.2 The adjournment was taken at 4:50 p.m.

I certify that the Minutes are true and correct.

Chairman

Secretary

February 01, 2019

MINUTES OF THE 3RD MEETING
OF THE COMMITTEE OF PRIVILEGES OF THE HOUSE OF
REPRESENTATIVES
HELD IN THE ANR ROBINSON MEETING ROOM (WEST), LEVEL 9,
OFFICE OF THE PARLIAMENT, TOWER D, 1A WRIGHTSON ROAD,
PORT OF SPAIN

PRESENT

Mrs. Bridgid Annisette-George	Chairman
Dr. Nyan Gadsby-Dolly	Member (<i>substitute for Mrs. Camille Robinson-Regis</i>)
Mr. Anthony Garcia	Member (<i>substitute for Mr. Fitzgerald Hinds</i>)
Mr. Stuart Young	Member
Mr. Rudranath Indarsingh	Member
Mr. Barry Padarath	Member

Secretariat

Mrs. Jacqui Sampson-Meiguel	Secretary
Ms. Keiba Jacob	Assistant Secretary
Ms. Chantal La Roche	Senior Legal Officer
Ms. Simone Yallery	Legal Officer I
Ms. Sheranne Samuel	Procedural Clerk Assistant
Ms. Kimberly Mitchell	Procedural Clerk Assistant

EXCUSED

Mr. Fitzgerald Hinds	Member
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CALL TO ORDER

- 1.1 The Chairman called the meeting to order at 2:32 p.m. and welcomed Members present.

**CONSIDERATION OF MINUTES OF THE SECOND MEETING HELD ON MONDAY
JANUARY 07, 2019:**

2.1 The Chairman invited Members to consider the Minutes and enquired whether there were any amendments.

2.2 The following amendment was made:

Paragraph 5.1, page 3: The words “Mr. Indarsingh concurred.” were inserted at the end of the paragraph.

2.3 There being no further amendments, the motion for the confirmation of the Minutes was moved by Mr. Young and seconded by Dr. Gadsby-Dolly.

2.4 The Minutes were confirmed.

MATTERS ARISING FROM THE MINUTES

3.1 **Paragraphs 8.9 and 8.13, page 5:**

The Chairman advised Members of the following:

- a. By letter to the Secretary of the Committee of Privileges dated January 21, 2019, the Member for Oropouche East requested an extension to January 28, 2019 to provide written submissions;
- b. By letter to the Speaker of the House dated January 28 2019, the Member for Oropouche East made written submissions (copy of letter circulated);
- c. By letter dated January 31st, 2019, the Clerk of the House responded to Dr. Moonilal on behalf of the Speaker of the House. The letter was hand-delivered to Dr. Moonilal in the House of Representatives during the sitting of the House held on February 01, 2019 (Copy of letter circulated).

UPDATE ON MATTER REFERRED TO THE COMMITTEE

Matter No. 2 (Threatening Words)

4.1 The Chairman advised that the agenda which was circulated could not be followed due to developments which affected the matter before the Committee. The Chairman outlined the following developments:

- a. The Member for Oropouche East by letter dated January 28, 2019, raised three (3) points of objection to appearing before the Committee. The Chairman outlined the 3 points of objection:
 - i. that the Committee of Privileges was not appointed or constituted at the time of the referrals;

- ii. that there exists no power to appoint temporary members of the Committee of Privileges, and therefore the Committee is improperly constituted; and
 - iii. that a member of a Committee against whom an allegation of bias is raised ought not to serve on the Committee.
- b. A response to the Member for Oropouche East's letter was hand delivered to him in the Chamber on February 01, 2019. On the same day (February 1, 2019), the Member for Oropouche East wrote to the Speaker of the House of Representatives indicating that he had not received a response.
 - c. At 8:00 a.m. this morning (February 05, 2019), documents were delivered to the Speaker's Office relating to a constitutional matter filed at the High Court, San Fernando on February 04, 2019 by the Member for Oropouche East. This matter included an application for an injunction against the Committee of privileges continuing hearings into the matters referred to the Committee by the House of Representatives. The application for an injunction was heard today (February 05, 2019) at 9:00 a.m. in the High Court, San Fernando (The related Affidavit was circulated)
 - d. In relation to the matter filed in the High Court, San Fernando yesterday, the Chairman advised the following:
 - No pre-action protocol letter was issued and no Member of the Committee had been named as a party in the proceedings;
 - The issues raised in the claim differed materially from what the Member for Oropouche East outlined in his letter to the Speaker of the House of January 28, 2019. The allegation of bias was now extended to the Chairman;
 - Senior Counsel appeared amicus curiae on behalf of the Speaker at the hearing before the Court this morning (February 5, 2019) and subsequently provided a report on the proceedings;
 - No injunction was granted to prohibit the Committee from meeting;
 - The Speaker, through Senior Counsel, gave an undertaking to the Court that hearings into the matter referred by the House of Representatives to the Committee will be adjourned, until the hearing of the application or further order;
 - The Speaker as guardian of the privileges, rights and immunities of the House of Representatives considered that it was her duty to so act in the interest of the House of Representatives as a whole and having regard to the comity of relations that exists between the Legislature and the Judiciary;
 - Senior Counsel reported that it was made clear to the Court that the Committee would meet to decide on the course of action it will take but it would not hear the allegations of whether the Claimant committed a contempt until the hearing of the application or further order.

4.2 After explaining the sequence of events, the Chairman then requested that the Committee endorse the undertaking given to the Court by her, in her capacity of Speaker of the House.

4.3 Mr. Young, Mr. Garcia and Dr. Gadsby-Dolly agreed that the Committee should endorse the undertaking given to the Court. Mr. Indarsingh requested further time to review the documents to make an informed decision. Mr. Padarath took no view on the matter.

4.4 The Chairman proposed and the Committee agreed to submit a report to the House on this matter outlining all that has transpired to date. There was agreement that the Chairman should cause to be circulated the draft report for approval by round robin.

4.5 Mr. Garcia was excused at 3:01 p.m.

UPDATE ON MATTER REFERRED TO THE COMMITTEE

Matter No. 1 (Misleading the House)

5.1 The Chairman announced that Mr. Hinds was unavailable to attend the meeting.

5.2 The Chairman pointed out that the developments outlined above (par 4.1) in relation to the second matter referred were relevant to the matter related to the allegation of willful misleading of the House.

5.3 The Chairman indicated that there was a further development in relation to this matter and advised the Committee as follows –

- Subsequent to the last meeting of the Committee, it was drawn to her attention by the Secretary of the Committee that an action in defamation had been filed by the Member for Diego Martin West against the Member for Oropouche East in the High Court;
- The Legal Unit of the Parliament was able to obtain a copy of the action so filed from the registry of the High Court. (A copy of the Claim Form in relation to claim #CV2019-00055 Dr. Keith Rowley v Dr. Roodal Moonilal filed and stamped by the High Court on January 08, 2019 was circulated)

5.4 A discussion ensued.

5.5 While acknowledging that a contempt is an offence against the House itself and not against an individual member, the Chairman made the following points:

- From a perusal of the claim filed in the High Court, it is clear that the Member for Diego Martin West has decided to pursue a remedy in the High Court against the Member for Oropouche for the words uttered;
- Should the Committee continue its consideration into the matter referred, there could be an argument that dual remedies are being pursued simultaneously.

5.6 Mr. Young indicated that in his view the Committee should not continue further with the Matter in light of the defamation matter before the Court.

5.7 Mr. Indarsingh acknowledged the right of persons to seek relief via the Courts however he underscored the view that this Matter before the Committee should be seen to its finality.

5.8 The Chairman referred to the publication of the Committee's deliberations of January 07, 2019 in the Guardian Newspaper of January 08, 2019. While registering her concern with this breach, pointed out that in the circumstances there is no guarantee that the rule against premature publication of proceedings will be observed and that Court proceedings would not thereby be prejudiced. Given all the circumstances, the Chairman agreed with Mr. Young that no further action should be taken by the Committee in the matter.

5.9 Mrs. Gatsby-Dolly concurred.

5.10 After further discussions, Mr. Indarsingh and Mr. Padarath agreed that in view of the Court matter, the Committee should take no further action.

5.11 The Committee underscored the following:

- i. that the decision was not a precedent for any future matters.
- ii. the Committee was not recommending that the House cede its jurisdiction to treat with contempt matters to another place.
- iii. the decision was arrived at due to the unique facts and circumstances of the matter under consideration.

5.12 The Chairman proposed and the Committee also agreed to submit a report to the House on this matter with a recommendation that no further action be taken with particulars related to Claim Form No. CV2019-00055 to be appended. There was also agreement that the Chairman should cause to be circulated the draft report for approval by round robin.

OTHER BUSINESS

6.1. The Chairman informed the Committee that correspondence was received from Mr. Padarath and Mr. Indarsingh, dated February 01, 2019 regarding the schedule of meetings and the agenda.

6.2. In response to concerns raised about the scheduling of meetings, the Chairman advised Members that it was the responsibility of the Chairman to schedule meetings in instances when the Committee adjourned to a date to be fixed. She advised that there is no rule or practice that all Members must agree on the date and time for a meeting.

ADJOURNMENT

7.1 There being no other business, the Chairman thanked Members for attending and adjourned the meeting to a date to be fixed.

7.2 The adjournment was taken at 3:22 p.m.

I certify that the Minutes are true and correct.

Chairman

Secretary

February 06, 2019

**Research on the question of whether
a Committee of Privileges should
stay its deliberations pending the
outcome of a concurrent
investigation into a matter under
inquiry by the Trinidad and Tobago
Police Service**



Question: Should a Committee of Privileges stay its deliberations pending the outcome of a concurrent investigation into a matter under inquiry by the Trinidad and Tobago Police Service.

The Committee of Privileges (hereafter referred to as ‘the Committee’) was established under the Standing Orders of the House of Representatives to consider and report on any matter referred to it by the Speaker or the House.¹

The Power to Investigate

2. The Erskine May’s Treatise on the Law, Privileges, Proceedings and Usage of Parliament notes that Select Committees “*possess no authority except that which they derive by delegation from the House*”.
3. The Committee of Privileges possesses the same powers² and is subject to the same procedural rules as other select committees. One of these is the power “*to send for persons, papers and records*”.
4. It is therefore charged with investigating the facts of the matters referred to it and reporting to the House if, in its opinion, a breach of privilege or contempt has been committed.
5. Pursuant to ***section 56 of the Constitution of the Republic of Trinidad and Tobago*** Parliament enjoys *exclusive cognisance*, or *exclusive jurisdiction*, and is therefore the sole authority to control of its own affairs free from outside interference or examination from other sources.
6. Additionally, according to Parliamentary Practice, a witness before a Parliamentary Committee must therefore answer all questions put to him or her, and cannot be excused from answering (or from providing documents) on the basis of any obligation of confidentiality, potential prejudice to extant litigation, legal professional privilege or by asserting privilege against self-incrimination.

¹ Standing Order 92 of the House of Representatives

² Standing Order 111 of the House of Representative sets out the General Powers of Select Committees

Overlapping Jurisdiction of the Police/Courts and Parliament

7. The recognition of Parliamentary privilege is not intended to set Members of Parliament above the law; rather, the intention was to give them certain exemptions from the law in order that they might properly execute the responsibilities of their position. Members of Parliament are therefore subject to civil or criminal liability except in respect of words spoken or acts done in the context of parliamentary proceedings.

8. In cases where the allegations of breaches of privilege or contempt give rise to some form of criminal misconduct, the question arises whether the Committee's inquiry can run concurrent with a criminal investigation by the Trinidad and Tobago Police Service.

9. The Supreme Court judgment in ***R v Chaytor and others (Appellants) [2010], UKSC 52*** noted the overlapping jurisdiction of the courts and Parliament as follows:

"Where a crime is committed within the House of Commons, this may well also constitute a contempt of Parliament. The courts and Parliament have different, overlapping, jurisdictions. The House can take disciplinary proceedings for contempt and a court can try the offender for the crime."

Concurrent investigations: Trinidad and Tobago

10. The unimpeded work of the Committee of Privileges of the House of Representatives in the 2004-2005 Session serves as a useful example of the House's power to proceed with a concurrent investigation.

11. On September 17, 2004, the Speaker of the House, having ruled that prima facie cases of breach of privilege had been established against two (2) Members, referred the matters to the then Committee of Privileges for a full investigation and report.

12. Among the issues was an allegation by Mr. Chandresh Sharma, former Member of Parliament for Fyzabad that on Wednesday September 15, 2004, Dr. Keith Rowley, Member of Parliament for Diego Martin West, had *inter alia*, struck him in the face and chest and threw several objects at him whilst they were in the precincts of the House (the tearoom).

13. Mr. Sharma reported the matter to the Central Police Station and as evidence³ tendered in support of this showed, a police investigation commenced immediately.

14. The Committee heard that upon receiving Mr. Sharma's report at the Central Police Station, three (3) Police Officers accompanied him back to the Parliament, had conversations with the Clerk of the House and the Sergeant-at-Arms and interviewed four (4) members of the Pantry staff.

³ Among the documentary evidence tendered were Station Diary Extracts, statements from four police officers and a medical report on Mr. Sharma. See *File III of the First Report of the Committee of Privileges of the House of Representatives (2004-2005 Session)*

15. The commencement of that police investigation did not in any way obstruct or impede the work of the Committee. In fact, the Committee commenced its investigation on October 1, 2004, and presented its report to the House of Representatives on March 16, 2005.

Concurrent investigations: The United Kingdom

16. There are several recent examples of Select Committees conducting inquiries in parallel with regulatory and/or criminal investigations into the same events and issues:

- In July 2011, at the height of the criminal investigations into allegations of phone hacking and bribery of police officers, Rupert Murdoch, then chairman and CEO of News Corporation, and Rebekah Brooks, the former editor of the *News of The World* newspaper, were summoned to appear before the Culture, Media and Sport Committee.
- In July 2012, Bob Diamond, then CEO of Barclays Capital, was called to give evidence before the Treasury Select Committee, while investigations by the Financial Services Authority and Serious Fraud Office were still active.
- In February and March 2014, senior officials of the Bank of England and Financial Conduct Authority have been questioned in Parliament about the ongoing investigation into alleged manipulation in the foreign exchange market.

Conclusion

17. It is noted that there have been occasions when parliamentary proceedings proceed concurrently with criminal investigations. While the relationship between committee proceedings and criminal investigations will vary, it is evident that one does not prevent the other from proceeding.

18. It is submitted, however, that in such cases Committees should exercise their undoubted powers very carefully in view of issues such as confidentiality, potential prejudice to extant litigation, legal professional privilege and the privilege against self-incrimination. The Committee should also avoid decisions or actions may appear to usurp the functions of the Trinidad and Tobago Police Service.

Legal Unit
December 6, 2018

References

1. *Constitution of the Republic of Trinidad and Tobago*
2. *Standing Orders of the House of Representatives of Trinidad and Tobago, 2015*
3. Lee, Derek, *The Power of Parliamentary Houses to Send for Persons, Papers & Records: A sourcebook on the Law and Precedent of Parliamentary Subpoena Power for Canadian and other Houses* (University of Toronto Press Incorporated, 1999)
4. Mc Kay, Sir William, Frank Cranmer, Mark Hutton, Simon Patrick, Mary Robertson, Alan Sandall, ed., *Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament Twenty-Third Edition*, (LexisNexis UK 2004)
5. O'Brien, Audrey and Marc Bosc, eds., *House of Commons Practice and Procedure Second Edition 2009* (House of Commons Ottawa and Éditions Yvon Blais Montréal 2009)
6. *First Report of the Committee of Privileges of the House of Representatives (2004 – 2005 Session) on Allegations of Breach of Privilege Arising out of an incident that occurred in the Members' Lounge on Wednesday September 15, 2004*
7. *Seventh Report of Session 2013–14- House of Commons Committee on Standards The House of Commons Code of Conduct and the Criminal Law*

Constitutional Motion and Affidavit

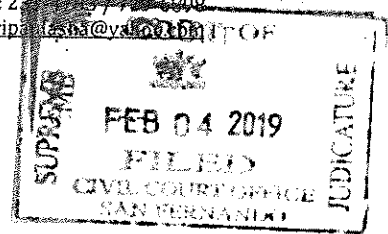
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TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE
SUB-REGISTRY SAN FERNANDO

Claim No. CV2019-00

BETWEEN

ROODAL MOONILAL

Claimant

AND

THE ATTORNEY GENERAL OF TRINIDAD AND TOBAGO

Defendant

ORIGINATING MOTION UNDER SECTION 14 OF THE CONSTITUTION

The Claimant **ROODAL MOONILAL** of 162 Seaview Drive, Parkway Avenue Gulf View, San Fernando in the island of Trinidad claims against the Defendant **THE ATTORNEY GENERAL OF TRINIDAD AND TOBAGO** with its registered address

at Ministry of the Attorney General, Cabildo Chambers, 23-27 St. Vincent Street, Port of Spain in the island of Trinidad the following:

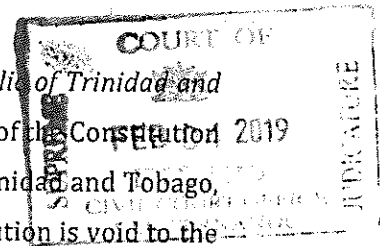
- (i) A declaration that the decision of the Speaker of the House of Representatives and Chairman of the Committee of Privileges, being a servant and or agent of the State of Trinidad and Tobago dated the 30th January 2019 as represented in a letter under the hand of Jacqui Sampson Meiguel, Clerk of the House, to proceed with the hearing of the allegations of whether the Claimant committed a contempt of the House on the 9th October 2018 and the 10th October 2018, with the Committee of Privileges as presently constituted, is in breach the Claimant's fundamental rights guaranteed under Section 4(b), 5(2) e and the right conferred by Section 55 of the Constitution of the Republic of Trinidad and Tobago.
- (ii) An injunction and/or conservatory order restraining the Defendant, its servants and or agents and more particularly the Committee of Privileges of the Parliament of Trinidad and Tobago, from continuing the hearings into the allegations of whether the Claimant committed a contempt of the House on the 9th October 2018 and the 10th October 2018 until the hearing and determination of this matter or until further order.
- (iii) An order that the Defendant pay to the Claimant monetary compensation for the damages suffered by the Claimant as a result of the unlawful actions of the Defendant.
- (iv) An order that the Defendant do pay the Claimants costs of this Claim to be assessed by the Registrar of the Supreme Court in default of agreement.
- (v) Such further or other relief as this Honourable Court may deem fit in the circumstances of the case.

The Grounds upon which these reliefs are sought are as follows:-

Jurisdiction of the High Court

(a) In a modern democratic society founded on the ideology of participatory democracy, such as Trinidad and Tobago, every citizen has a legitimate interest in the upholding of the Constitution and the Rule of Law. In the Democratic Republic of Trinidad and Tobago, which has a written constitution, this constitutional value is embodied and enshrined in the Preamble.¹ This legitimate interest is greater and emboldened in relation to a Member of Parliament who by virtue of his oath has sworn to uphold the Constitution and the law. In addition, a Member of Parliament by virtue of his election speaks on behalf of the constituents whom he was elected to represent. The discharge of his duty to represent his constituents is a fundamental pillar of a democratic society based upon the rule of law.

(b) Section 1 of the Constitution provides that, "*The Republic of Trinidad and Tobago shall be a sovereign democratic State*". Section 2 of the Constitution provides that the Constitution is the supreme law of Trinidad and Tobago, and any other law that is inconsistent with this Constitution is void to the extent of the inconsistency. Therefore, the Rule of Law is an expressly declared and avowed constitutional value that underpins the Republican Constitution of Trinidad and Tobago which is the supreme law.



(c) It is a task of the Judiciary to uphold the supremacy of the Constitution and thereby the Rule of Law². The High Court by virtue of the Constitution is the ultimate guardian of constitutional compliance. In Trinidad and Tobago, the Court is the ultimate interpreter of the Constitution and the Court is assigned the task of determining the reach, breadth and content of the rights conferred by the Constitution. The High Court is vested with the responsibility to determine what powers are conferred on each branch of

¹ Dumas v The Attorney General of Trinidad and Tobago Civil Appeal No. P 218 of 2014 paragraph 103

² The Attorney General of Trinidad and Tobago v Dumas [2017] UKPC 12

government, whether it is limited, and if so, what are the limits and whether any action of that branch transgresses such limits. It is for the Court to uphold the constitutional values and to enforce the constitutional limitations. That is the essence of the Rule of Law³.

(d) Section 14 of the Constitution confers upon the High Court all of the powers to discharge the Court's Constitutional mandate, to enforce the fundamental rights, ensure constitutional compliance and grant the appropriate relief where necessary to uphold the Rule of Law.

(e) A democracy which claims not only to have respect for the fundamental rights of its citizens, but which makes express provisions in its Constitution to entrench and preserve those rights, should never appear to entertain the suggestion that members of Parliament are free to do what they like provided it is done within its walls. The oath taken by its Members demands of them respect for the Constitution.⁴

(f) Section 56(1) of the Constitution provides that subject to the provisions of this Constitution, each House may regulate its own procedures. This does not vest the Parliament with an absolute ouster of the Court's jurisdiction to inquire in matters of Parliament. Section 56(1) gives constitutional recognition to the Privileges of Parliament. *"Privileges is an important part of the law and custom of Parliament, but aspects of the law are still obscure. It has been developed over centuries by the response of Parliament, especially the commons, to changing circumstances and also, since privileges affects those outside Parliament, by decisions of the Courts. Since neither House separately exercises legislative supremacy, neither House can by its own resolution create new privileges. When a matter of privilege is disputed, it is a matter for the courts to decide whether a privilege exists⁵."*

³ State of Rajasthan v Union of India AIR [1977] SC 1361 para 143

⁴ Boodram v The Attorney General, Trinidad and Tobago High Court Action No. 6874 of 1987

⁵ Constitutional and Administrative Law, 14th edn. page 223

Grounds in support of composition of Committee

- (g) The House of Representatives' Standing Orders of the Parliament contain rules for the conduct of the proceedings of the House and for the exercise of powers possessed by the House.⁶ They are not intended to diminish or restrict the rights, privileges and immunities of the House and its Committees collectively or of its members individually.
- (h) The Standing Orders are made pursuant to the express constitutional authority of Section 56 and in accordance with Section 20 of the Constitution of the Republic of Trinidad and Tobago Act:

20. The Standing Orders of the Senate and of the House of Representatives of the last Parliament under the former Constitution as in force immediately before the appointed day shall, except as may be otherwise provided in pursuance of section 56(1) of the Constitution, be the Standing Orders of the Senate and of the House of Representatives established by the Constitution, but shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Act.

- (i) The Standing Orders are therefore expressly subject to the Constitution including the fundamental human rights conferred in Sections 4-5.
- (j) The Standing Orders are the means by which the constitutional powers conferred by Section 56 are discharged. There is a specific right of freedom of speech that is conferred on a Member of Parliament by virtue of Section 55 of the Constitution. The Member of Parliament exercises this right on behalf of his constituents. Where any action that is taken has expressly breached a provision of the Standing Orders or has the potential to breach any Standing Order or has the ability to affect the right conferred upon a Member of Parliament by Section 55 of the Constitution the Court has a

⁶ Standing Order 128 "These Standing Orders shall come into effect at the commencement of the Fifth Session of the Tenth Parliament.

duty to intervene to ensure constitutional compliance and to protect the rights of the Member of Parliament and by extension the right of the constituents that the Member represents.

Committee of Privileges Improperly Constituted

- (k) The Committee of Privileges is established by Standing Order 92 of the Standing Orders of the House of Representatives. The Committee of Privileges cannot act in a manner that is inconsistent with the Standing Orders of the Parliament. The Committee of Privileges is subject to the provisions of the Standing Orders and the Constitution. The proceedings before the Committee of Privileges can affect the right of the Claimant conferred by Section 56 of the Constitution to speak freely in Parliament on behalf of his constituents.
- (l) Under the Constitution and the Standing Orders, the Claimant is entitled to a fair hearing before a Committee of Privileges properly constituted in accordance with the Standing Orders.
- (m) Standing Order 92 provides expressly for the membership of the Committee of Privileges. The recusal of a member from the Committee for a particular matter does not create a vacancy that can be filled by a temporary appointment by the Speaker of the House of Representatives and Chairman of the Committee of Privileges.
- (n) Standing Order 92 of the House of Representatives provides, *"The Committee of Privileges shall consist of six (6) members inclusive of the Chairman."* At present the Committee of Privileges comprises seven (7) members in relation to its composition to determine the first allegation and eight (8) members in relation to its composition to determine the other allegation. The Members that were appointed temporarily have participated in the proceedings of the Committee. This is a clear violation of the Standing Orders and vitiates the entire proceedings where these members have participated.

(o) The enlargement of the Committee beyond the prescribed maximum of six (6) members is illegal, unconstitutional and ultra vires. Previously, the House of Representatives' Standing Orders 1961 had provided that "*The Committee of Privileges shall consist of not less than six, and not more than ten, Members inclusive of the Chairman.*" There was therefore a deliberate policy change in the present Standing Orders to (a) fix the number of members and (b) limit the number of members and hence there is no discretion or jurisdiction to exceed the prescribed number of members beyond six (6).

(p) The Standing Orders of the Parliament and by extension the drafters of the Standing Orders contemplated and made provisions for the absence of a Chairman⁷ and a Member⁸. There is also a procedure for amendment to the Standing Orders.⁹ Unless otherwise provided a quorum shall be three (3) members.¹⁰

(q) Where an Act of Parliament confers an administrative power, (1) there is a presumption that it will be exercised as a manner which is fair in all the circumstances. (2) The standards of fairness are not immutable. They may change with the passage of time, both in general and in their application to decisions of a particular type. (3) The principles of fairness are not to be applied by rote identically in every situation. What fairness demands is dependent on the context of the decision, and this is to be taken into account in all its aspects. (4) An essential feature of the context is the statute which creates the discretion, as regards both its language and the shape of the legal and administrative system within which the decision is taken. (5) Fairness will very often require that a person who may be adversely affected by the decision will have an opportunity to make

⁷ Standing Order 112 (4)

⁸ Standing Order 116

⁹ Standing Order 121

¹⁰ Standing Order 112 (5)

representations on his own behalf either before the decision is taken with a view to producing a favourable result; or after it is taken with a view to procuring its modification; or both. (6) Since the person affected usually cannot make worthwhile representations without knowing what factors may weigh against his interest, fairness will very often require that he was informed of the case which he has to answer¹¹.

- (r) The Committee of Privileges must act fairly and in accordance with the principles of natural justice because it is duty-bound to do so by virtue of the concept of due process, the rule of law, the right to protection of the law, the right to a fair hearing before an independent and impartial tribunal in accordance with the principles of fundamental justice and Section 20 of the Judicial Review Act.
- (s) The constitutional right to the protection of law and the principles of natural justice demand that particular attention must be paid to the need for procedural fairness in any investigation¹². The Court will impose a heightened degree of scrutiny in relation to the exercise of powers that have the potential to affect the rights of a citizen. In the circumstances of this case the actions of the Speaker of the House of Representatives and Chairman of the Committee of Privileges have the potential to affect not only the right of the Claimant but also the right of all of the constituents that he is duty bound to represent. The right to procedural fairness is a right that is protected by Section 4(b) and Section 5(2) (e) of the Constitution¹³ and the Claimant enjoys a right to freedom of political expression under section 4 (e) of the Constitution.
- (t) In **CV2011-04918 Nizam Mohammed v The Attorney General of Trinidad and Tobago** (which was cited with approval by the Privy Council

¹¹ R v The Secretary of State for the Home Department ex parte Doody [1994] 1 AC 531 at 560.

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in *Sam Maharaj v Prime Minister* [2016] UKPC 37), Jones, J (as she then was) held:

“Section 4 (b) of the Constitution confirms the right of the individual to the protection of the law which protection includes the right to natural justice. In somewhat similar vein section 5(2)(e) of the Constitution provides that, subject to certain exceptions, Parliament may not deprive a person of the right to a hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations. It is now accepted that the rights embodied in section 5 of the Constitution particularize in some greater detail what is included in the words “the due process of law” and “the protection of the law” found in section 4 of the Constitution. Insofar as these proceedings are concerned both the Claimant and the Defendant do not dispute that what both sections provide is “constitutional protection to the right to procedural fairness.”” (Emphasis added)

- (u) The manner in which the Speaker of the House of Representatives and Chairman of the Committee of Privileges has exercised the power that derives from the Standing Orders made under the powers conferred by the Constitution amounts to the arbitrary exercise of power and the protection of law guaranteed under Sections 4 (b) and 5(2) (e) of the Constitution protects the Claimant against the exercise of such powers¹⁴.

Grounds in support of automatic disqualification of Members to sit on Committee

- (v) Appendix III of the Standing Orders of the House of Representatives¹⁵, Rule 45, was designed to guarantee the right to natural justice and by extension procedural fairness in proceedings before any Committee. Appendix III provides an automatic disqualification for members in certain circumstances and a right to object to the sitting of a member in a Committee in other circumstances.

¹⁴ *The Maya Leaders Alliance v The Attorney General of Belize* [2005] CCJ 15 at paragraph 47.

¹⁵ This is a new section in the Standing Orders that did not exist in the 1961 Standing Orders

(w) Rule 45 provides at page 78,

"A member who has, (whether in the House or outside the House) made an allegation of crime or expressed a concluded view on any conduct or activity of a criminal nature, identifying by name or otherwise a person as being responsible for or associated with that crime, conduct or activity (referred to as apparent bias), may not participate-

(a) in any Select Committee inquiry into that person's responsibility for, or association with that crime, conduct or activity; or

(b) in any other proceedings in a Select Committee that may seriously damage the reputation of that person."

(x) S.49 Summary Offences Act Chapter 11:02

Any person making use of any insulting, annoying or violent language with intent to, or which might tend to, provoke any other person to commit a breach of the peace, and any person who uses any obscene, indecent or profane language to the annoyance of any resident or person in any street or of any person in a place to which the public is admitted or has access, or who fights or otherwise disturbs the peace, is liable to a fine of two hundred dollars or to imprisonment for thirty (30) days.

(y) The Member of Parliament for Laventille West has made an allegation that the Claimant has acted in a manner that contravenes section 49 of the Summary Offences Act.

(z) The Speaker of the House of Representatives and Chairman of the Committee of Privileges has made an allegation that the Claimant has acted in a manner that contravenes section 49 of the Summary Offences Act.

(aa) Both the Member of Parliament for Laventille West and the Speaker of the House of Representatives and Chairman of the Committee of Privileges

are both automatically disqualified from sitting in the Committee of Privileges by virtue of the express provisions of the Standing Orders of the Parliament in relation to any matter concerning the Claimant. The application of this provision is not subject to the discretion of any Member.

(bb) Alternatively, both the Member of Parliament for Laventille West and the Speaker of the House of Representatives and Chairman of the Committee of Privileges are disqualified on the ground of apparent bias because they have made prejudicial comments that have compromised their ability to appear to be and/or be independent and impartial such that the Claimant can be assured of a fair trial by an independent and impartial tribunal.

(cc) A fair minded and informed observer will conclude that there is a real possibility of bias.¹⁶ In Davidson v Scottish Ministers [2004] UKHL 34 Lord Bingham stated, *"It has ...been accepted for many years that justice must not only be done but must also be seen to be done. This principle is rooted in the need for public confidence in the administration of justice"*

Grounds in support of Apparent Bias Against the Speaker

(dd) The Constitution and the Standing Orders of the Parliament guarantee to the Claimant a hearing before a Committee of Privileges that is not infected with bias. This is confirmed by Appendix III¹⁷, the Constitution¹⁸ and the common law¹⁹.

(ee) The Member of Parliament for Laventille West is presently a complainant and potential witness adverse to the Claimant in an allegation that is presently being investigated by the Committee of Privileges pertaining to

¹⁶ Magill v Porter [2001] UKHL 67

¹⁷ Rule 46

¹⁸ Section 4 (b) and section 5(2) e

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a statement that was allegedly made during crosstalk that *"Da is why Snake have some lead for you."*

- (ff) In delivering her ruling in accordance with Standing Order 32 on whether a prima facie case was made out the Speaker impermissibly crossed the line by saying *"there is absolutely no place for violent or threatening language in this House. The statement made, when placed in context as presented by the Member for Arouca/Maloney, clearly falls below the esteem and dignity of the Parliament."*
- (gg) In so doing, the Speaker pre-judged the matter and prejudiced the proceedings of the Committee of Privileges of which she is the Chair²⁰. She illegally usurped the role, function and power of the Committee of Privileges by purporting to make a premature finding and/or conclusion in advance of and/or without the benefit of a hearing and is hence disqualified from serving as a member and Chairman of the committee.

Grounds in support of Apparent Bias Against the MP for Laventille West

- (hh) The fair minded and informed observer will find that the Member of Parliament for Laventille West is apparently biased against the Claimant and he is hence disabled from sitting in judgment on the committee.
- (ii) The Speaker, in her capacity as Chairman has indicated that the Committee of Privileges intends to hear both allegations against the Claimant at the same time. The Member of Parliament for Laventille West is the virtual complainant in the second of the two (2) allegations against the Claimant and has voluntarily recused himself from the Committee of Privileges hearing *that* allegation. He however remains a member of the committee for the purpose of hearing the first complaint into statements

²⁰ Standing Order 92 (2)

made by the Claimant in relation to a certain bank account that was allegedly linked to the Prime Minister.

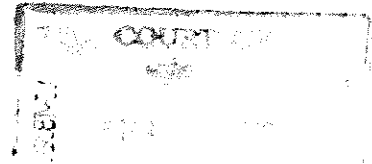
(jj) It is fundamentally unfair and constitutionally improper for the MP for Laventille West to sit in judgment of the Claimant on another complaint whilst the Committee is simultaneously hearing a complaint which alleges that the Claimant threatened his life or made serious threats of harm to him. The risk of actual bias and/or apparent bias is real, and it violates sections 4(b) and 5(2) (e) of the Constitution.

CERTIFICATE AS TO TRUTH

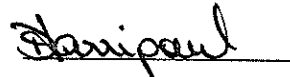
I ROODAL MOONILAL, the Claimant herein do hereby certify that the facts contained in this Fixed Date Claim Form are true and correct based on my information and that I am entitled to the remedies claimed.



ROODAL MOONILAL
Claimant



Dated this 4th day of February, 2019



Dayadai Harripaul
Claimant's Attorney-at-Law

NOTICE TO DEFENDANT:-

The First Hearing of this claim will take place at the High Court of Justice Knox Street, Port-of-Spain on the _____ day of _____ 2019 at the hour of _____ a.m. / p.m. in the forenoon/ afternoon or so soon thereafter as Senior Counsel for the Claimant can be heard before the Honorable Mr. / Madam Justice _____ in courtroom POS _____

AND FURTHER TAKE NOTICE that the Claimant will rely upon the affidavit of the Claimant sworn to and filed herein on the 4th day of February, 2019 and such further or other evidence that this Honorable Court may admit or receive.

If you do not attend at that hearing, judgment may be entered against you in accordance with the Claim.

If you do attend, the judge may

- (a) deal with the claim, or
- (b) give directions for the preparation of the case for a further hearing

An affidavit giving full details of the Claimant's claim should be served on you with this Claim Form. If not and there is no order permitting the claimant not to serve the affidavit you should contact the court office immediately.

You should complete the form of appearance served on you with this Claim Form and deliver or send it to the court office (address below) so that they receive it within EIGHT days of service of this Claim Form on you. The form of appearance may be completed by you or an attorney acting for you.

You should consider obtaining legal advice with regard to this claim. See the notes on the back of this form or on the next page.

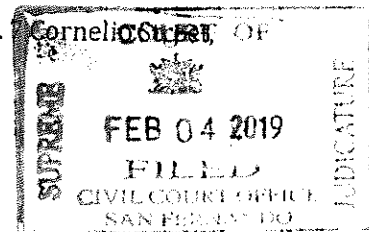
This claim form has no validity if it is not served within [four] months of the date below unless it is accompanied by an order extending that time.

The **Court office** is at the Hall of Justice, Knox Street, Port of Spain telephone number 623-2417, FAX 623-2417. The office is open between 8:00a.m. and 4:00 p.m. Mondays to Fridays except Public Holidays and Court Holidays.

The Claimant's address for service is:

Ms. Dayadai Harripaul,
St. Michael's Law
7 Cornelio Street
Woodbrook
Port-of-Spain.

This Claim is issued by Dayadai Harripaul, Attorney at Law of No. 7 Cornelio Street, Woodbrook in the city of Port-of-Spain for the Claimant.



TO: The Registrar of the Supreme Court
Hall of Justice
Knox Street
Port-of-Spain

AND TO: The Attorney General of Trinidad and Tobago
Ministry of the Attorney General
Cabildo Chambers
23-27 St. Vincent Street
Port-of-Spain.

Constitutional Law

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anandramlogan@outlook.com

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(Bar No: HAD2014130)
No. 6 Gordon Street
San Fernando
Tel: 233-4783/ 729-6898
Email: harripaulasha@yahoo.com

TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE
SUB-REGISTRY SAN FERNANDO

Claim No. CV2019-00

BETWEEN

ROODAL MOONILAL

Claimant

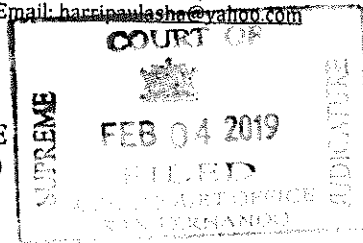
AND

THE ATTORNEY GENERAL OF TRINIDAD AND TOBAGO

Defendant

AFFIDAVIT OF ROODAL MOONILAL

I, Roodal Moonilal, Member of Parliament of 162 Seaview Drive, Parkway Avenue Gulf View, San Fernando, make oath and say as follows:-



1. The facts stated in this my affidavit are true, correct and within my personal knowledge except where otherwise stated to be based on information and belief in which case I believe the same to be true. I make this affidavit in support of my application for relief under section 14 of the Constitution of the Republic of Trinidad and Tobago.
2. The name and address of the parties to this application for relief under the Constitution are: -

A) Name and address:

The name and address of the Claimant is:
Roodal Moonilal
162 Seaview Drive
Parkway Avenue Gulf View
San Fernando.

The Claimant's address for service is:
Dayadai Harripaul
Attorney-at-Law
No. 7 Cornelio Street
Woodbrook
Port-of-Spain.

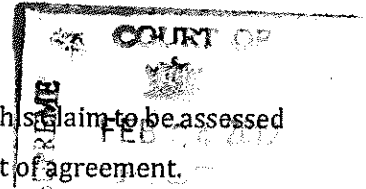
The Defendant to this Application is:-
The Attorney General of Trinidad and Tobago
Cabildo Chambers
23-27 St. Vincent Street
Port-of-Spain.

The Claimant at the hearing of the Application for Interim Relief will seek the permission of the Court to serve a copy of these proceedings on the Speaker of the House of Representatives and Chairman of the Committee of Privileges.

3. The relief that I seek by this application is as follows:
 - (i) A declaration that the decision of the Speaker of the House of Representatives and Chairman of the Committee of Privileges, being a servant and or agent of the State of Trinidad and Tobago dated the 30th January 2019 as represented in a letter under the hand of Jacqui

Sampson Meiguel, Clerk of the House, to proceed with the hearings of the allegations of whether the Claimant committed a contempt of the House on the 9th October 2018 and the 10th October 2018, with the Committee of Privileges as presently constituted, is in breach the Claimant's fundamental rights guaranteed under section 4(b), 5(2) e and the right conferred by section 55 of the Constitution of the Republic of Trinidad and Tobago.

- (ii) An injunction and/or conservatory order restraining the Defendant its servants and or agents and more particularly the Committee of Privileges of the Parliament of Trinidad and Tobago, from continuing the hearings into the allegations of whether the Claimant committed a contempt of the House on the 9th October 2018 and the 10th October 2018 until the hearing and determination of this matter or until further order.
- (iii) An order that the Defendant pay to the Claimant monetary compensation for the damages suffered by the Claimant as a result of the unlawful actions of the Defendant.
- (iv) An order that the do pay the Claimants costs of this claim to be assessed by the Registrar of the Supreme Court in default of agreement.
- (v) Such further or other relief as this Honourable Court may deem fit in the circumstances of the case.



INTERIM RELIEF AGAINST THE DEFENDANT

- (i) An injunction and/or conservatory order restraining the Defendant its servants and or agents and more particularly the Committee of Privileges of the Parliament of Trinidad and Tobago, from continuing the hearings into the allegations of whether the Claimant committed a contempt of the House on the 9th October 2018 and the 10th October

2018 until the hearing and determination of this matter or until further order.

4. The Grounds upon which I seek this relief are:-

Grounds in support of composition of Committee

(a) The House of Representatives Standing Orders of the Parliament contain rules for the conduct of the proceedings of the House and for the exercise of powers possessed by the House.¹ They are not intended to diminish or restrict the rights, privileges and immunities of the House and its Committees collectively or of its members individually.

(b) The Standing Orders are made pursuant to the express constitutional authority of Section 56 and in accordance with Section 20 of the Constitution of the Republic of Trinidad and Tobago Act:

20. The Standing Orders of the Senate and of the House of Representatives of the last Parliament under the former Constitution as in force immediately before the appointed day shall, except as may be otherwise provided in pursuance of section 56(1) of the Constitution, be the Standing Orders of the Senate and of the House of Representatives established by the Constitution, but shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Act.

(c) The Standing Orders are therefore expressly subject to the Constitution including the fundamental human rights conferred in sections 4-5.

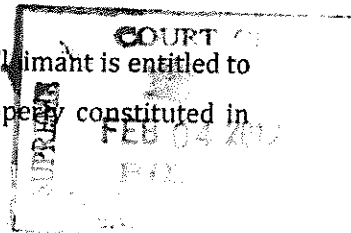
(d) The Standing Orders are the means by which the constitutional powers conferred by Section 56 are discharged. There is a specific right of freedom of speech that is conferred on a Member of Parliament by virtue of Section

¹ Standing Order 128 "These Standing Orders shall come into effect at the commencement of the Fifth Session of the Tenth Parliament.

55 of the Constitution. The Member of Parliament exercises this right on behalf of his constituents. Where any action that is taken has expressly breached a provision of the Standing Orders or has the potential to breach any Standing Order or has the ability to affect the right conferred upon a Member of Parliament by Section 55 of the Constitution the Court has a duty to intervene to ensure constitutional compliance and to protect the rights of the Member of Parliament and by extension the right of the constituents that the Member represents.

Committee of Privileges Improperly Constituted

- (e) The Committee of Privileges is established by Standing Order 92 of the Standing Orders of the House of Representatives. The Committee of Privileges cannot act in a manner that is inconsistent with the Standing Orders of the Parliament. The Committee of Privileges is subject to the provisions of the Standing Orders and the Constitution. The proceedings before the Committee of Privileges can affect the right of the Claimant conferred by Section 56 of the Constitution to speak freely in Parliament on behalf of his constituents.
- (f) Under the Constitution and the Standing Orders, the Claimant is entitled to a fair hearing before a Committee of Privileges properly constituted in accordance with the Standing Orders.
- (g) Standing Order 92 provides expressly for the membership of the Committee of Privileges. The recusal of a member from the Committee for a particular matter does not create a vacancy that can be filled by a temporary appointment by the Speaker of the House of Representatives and Chairman of the Committee of Privileges.
- (h) Standing Order 92 of the House of Representatives provides, *‘The Committee of Privileges shall consist of six members inclusive of the Chairman.’* At present the Committee of Privileges comprises seven (7) members in relation to its composition to determine the first allegation and



eight (8) members in relation to its composition to determine the other allegation. The Members that were appointed temporarily have participated in the proceedings of the Committee. This is a clear violation of the Standing Orders and vitiates the entire proceedings where these members have participated.

- (i) The enlargement of the Committee beyond the prescribed maximum of six members is illegal, unconstitutional and ultra vires. Previously, the House of Representatives Standing Orders 1961 had provided that "***The Committee of Privileges shall consist of not less than six, and not more than ten, Members inclusive of the Chairman.***" There was therefore a deliberate policy change in the present Standing Orders to (a) fix the number of members and (b) limit the number of members and hence there is no discretion or jurisdiction to exceed the prescribed number of members beyond six.
- (j) The Standing Orders of the Parliament and by extension the drafters of the Standing Orders contemplated and made provisions for the absence of a Chairman² and a Member³. There is also a procedure for amendment to the Standing Orders.⁴ Unless otherwise provided a quorum shall be three (3) members.⁵
- (k) Where an Act of Parliament confers an administrative power, (1) there is a presumption that it will be exercised as a manner which is fair in all the circumstances. (2) The standards of fairness are not immutable. They may change with the passage of time, both in general and in their application to decisions of a particular type. (3) The principles of fairness are not to be applied by rote identically in every situation. What fairness demands is dependent on the context of the decision, and this is to be taken into

² Standing Order 112 (4)

³ Standing Order 116

⁴ Standing Order 121

⁵ Standing Order 112 (5)

account in all its aspects. (4) An essential feature of the context is the statute which creates the discretion, as regards both its language and the shape of the legal and administrative system within which the decision is taken. (5) Fairness will very often require that a person who may be adversely affected by the decision will have an opportunity to make representations on his own behalf either before the decision is taken with a view to producing a favourable result; or after it is taken with a view to procuring its modification; or both. (6) Since the person affected usually cannot make worthwhile representations without knowing what factors may weigh against his interest fairness will very often require that he was informed of the case which he has to answer⁶.

(l) The Committee of Privileges must act fairly and in accordance with the principles of natural justice because it is duty-bound to do so by virtue of the concept of due process, the rule of law, the right to protection of the law, the right to a fair hearing before an independent and impartial tribunal in accordance with the principles of fundamental justice and Section 20 of the Judicial Review Act.

(m) The constitutional right to the protection of law and the principles of natural justice demand that particular attention must be paid to the need for procedural fairness in any investigation⁷. The Court will impose a heightened degree of scrutiny in relation to the exercise of powers that have the potential to affect the rights of a citizen. In the circumstances of this case the actions of the Speaker of the House of Representatives and Chairman of the Committee of Privileges have the potential to affect not only the right of the Claimant but also the right of all of the constituents that he is duty bound to represent. The right to procedural fairness is a right that is protected by Section 4(b) and Section 5(2) (e) of the

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Constitution⁸ and the Claimant enjoys a right to freedom of political expression under section 4 (e) of the Constitution.

(n) In **CV2011-04918 Nizam Mohammed v The Attorney General of Trinidad and Tobago** (which was cited with approval by the Privy Council in *Sam Maharaj v Prime Minister [2016] UKPC 37*), Jones J (as she then was) held:

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(o) The manner in which the Speaker of the House of Representatives and Chairman of the Committee of Privileges has exercised the power that derives from the Standing Orders made under the powers conferred by the Constitution amounts to the arbitrary exercise of power and the protection of law guaranteed under Sections 4 (b) and 5(2) (e) of the Constitution protects the Claimant against the exercise of such powers⁹.

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⁹ *The Maya Leaders Alliance v The Attorney General of Belize [2005] CCJ 15* at paragraph 47.

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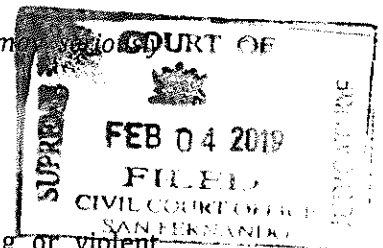
"A member who has, (whether in the House or outside the House) made an allegation of crime or expressed a concluded view on any conduct or activity of a criminal nature, identifying by name or otherwise a person as being responsible for or associated with that crime, conduct or activity (referred to as apparent bias), may not participate—

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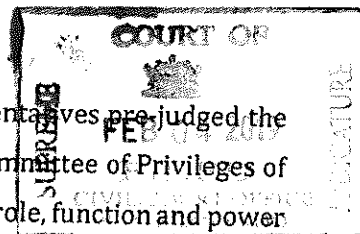
¹⁰ This is a new section in the Standing Orders that did not exist in the 1961 Standing Orders

- (s) The Member of Parliament for Laventille West has made an allegation that the Claimant has acted in a manner that contravenes section 49 of the Summary Offences Act.
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- (u) Both the Member of Parliament for Laventille West and the Speaker of the House of Representatives and Chairman of the Committee of Privileges are both automatically disqualified from sitting in the Committee of Privileges by virtue of the express provisions of the Standing Orders of the Parliament in relation to any matter concerning the Claimant. The application of this provision is not subject to the discretion of any Member.
- (v) Alternatively, both the Member of Parliament for Laventille West and the Speaker of the House of Representatives and Chairman of the Committee of Privileges are disqualified on the ground of apparent bias because they have made prejudicial comments that have compromised their ability to appear to be and/or be independent and impartial such that the Claimant can be assured of a fair trial by an independent and impartial tribunal.
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Grounds in support of Apparent Bias Against the Speaker

- (x) The Constitution and the Standing Orders of the Parliament guarantee to the Claimant a hearing before a Committee of Privileges that is not infected with bias. This is confirmed by Appendix III¹², the Constitution¹³ and the common law¹⁴.
- (y) The Member of Parliament for Laventille West is presently a complainant and potential witness adverse to the Claimant in an allegation that is presently being investigated by the Committee of Privileges pertaining to a statement that was allegedly made during crosstalk that *"Da is why Snake have some lead for you."*
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- (aa) In so doing, the Speaker of the House of Representatives pre-judged the matter and prejudiced the proceedings of the Committee of Privileges of which she is the Chair¹⁵. She illegally usurped the role, function and power of the Committee of Privileges by purporting to make a premature finding and/or conclusion in advance of and/or without the benefit of a hearing and is hence disqualified from serving as a member and Chairman of the committee.



Grounds in support of Apparent Bias Against the MP for Laventille West

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¹³ Section 4 (b) and section 5(2) e

¹⁴ Civil Appeal No. 145 of 2009 Baksh, Sadiq Kuei Tung, Brian v Espinet, Ejenny. Her Worship Senior Magistrate; The Director of Public Prosecutions

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- (bb) The fair minded and informed observer will find that the Member of Parliament for Laventille West is apparently biased against the Claimant and she is hence disabled from sitting in judgment on the committee.
- (cc) The Speaker, in her capacity as Chairman has indicated that the Committee of Privileges intends to hear both allegations against the Claimant at the same time. The Member of Parliament for Laventille West is the virtual complainant in the second of the two allegations against the Claimant and has voluntarily recused himself from the Committee of Privileges hearing *that* allegation. He however remains a member of the committee for the purpose of hearing the first complaint into statements made by the Claimant in relation to a certain bank account that was allegedly linked to the Prime Minister.
- (dd) It is fundamentally unfair and constitutionally improper for the MP for Laventille West to sit in judgment of the Claimant on another complaint whilst the Committee is simultaneously hearing a complaint which alleges that the Claimant threatened his life or made serious threats of harm to him. The risk of actual bias and/or apparent bias is real, and it violates sections 4(b) and 5(2) (e) of the Constitution.

Grounds in support of the Jurisdiction of the High Court to hear this matter.

- (ee) The Preamble of the Constitution of the Republic of Trinidad and Tobago states, whereas the People of Trinidad and Tobago—
- a. have affirmed that the Nation of Trinidad and Tobago is founded upon principles that acknowledge the supremacy of God, *faith in fundamental human rights and freedoms*, the position of the family in a society of free men and free institutions, the dignity of the human person and the equal and inalienable rights with which all members of the human family are endowed by their Creator;

- c. *have asserted their belief in a democratic society* in which all persons may, to the extent of their capacity, play some part in the institutions of the national life and thus develop and maintain due respect for lawfully constituted authority;
- d. *recognize that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law.*
- (ff) By virtue of Section 11(1) of the Interpretation Act Chapter 3:01, the Preamble is to be construed as a part of the Constitution and an aid to explaining its meanings and purposes.
- (gg) In a modern democratic society founded on the ideology of participatory democracy, such as Trinidad and Tobago, every citizen has a legitimate interest in the upholding of the Constitution and the Rule of Law. In the Democratic Republic of Trinidad and Tobago, which has a written Constitution, this constitutional value is embodied and enshrined in the Preamble.¹⁶ This legitimate interest is greater and emboldened in relation to a Member of Parliament who by virtue of his oath has sworn to uphold the Constitution and the law. In addition, a Member of Parliament by virtue of his election speaks on behalf of the constituents whom he was elected to represent. The discharge of his duty to represent his constituents is a fundamental pillar of a democratic society based upon the rule of law.
- (hh) Section 1 of the Constitution provides that, "*The Republic of Trinidad and Tobago shall be a sovereign democratic State*". Section 2 of the Constitution provides that the Constitution is the supreme law of Trinidad and Tobago, and any other law that is inconsistent with this Constitution is void to the extent of the inconsistency. Therefore, the Rule of Law is an expressly

¹⁶ *Dumas v The Attorney General of Trinidad and Tobago* Civil Appeal No. P 218 of 2014 paragraph 103

declared and avowed constitutional value that underpins the Republican Constitution of Trinidad and Tobago which is the supreme law.

- (ii) It is a task of the Judiciary to uphold the supremacy of the Constitution and thereby the Rule of Law¹⁷. The High Court by virtue of the Constitution is the ultimate guardian of constitutional compliance. In Trinidad and Tobago, the Court is the ultimate interpreter of the Constitution and to the court is assigned the task of determining the reach, breadth and content of the rights conferred by the Constitution. The High Court is vested with the responsibility to determine what powers are conferred on each branch of government, whether it is limited, and if so, what are the limits and whether any action of that branch transgresses such limits. It is for the Court to uphold the constitutional values and to enforce the constitutional limitations. That is the essence of the Rule of Law¹⁸.
- (jj) Section 14 of the Constitution confers upon the High Court all of the powers to discharge the Court's Constitutional mandate, to enforce the fundamental rights, ensure constitutional compliance and grant the appropriate relief where necessary to uphold the Rule of Law.
- (kk) A democracy which claims not only to have respect for the fundamental rights of its citizens, but which makes express provisions in its Constitution to entrench and preserve those rights, should never appear to entertain the suggestion that members of Parliament are free to do what they like provided it is done within its walls. The oath taken by its members demands of them respect for the Constitution.¹⁹
- (ll) If the Constitution is sacrosanct and that is to be upheld in the eyes of the public, then unconstitutional action that is exposed and corrected, enhances that special status and does not undermine it. If the Constitution

¹⁷ The Attorney General of Trinidad and Tobago v Dumas [2017] UKPC 12

¹⁸ State of Rajasthan v Union of India AIR [1977] SC 1361 para 143

¹⁹ Boodram v The Attorney General, Trinidad and Tobago High Court Action No. 6874 of 1987

is the supreme law, and breaches of its provisions cannot be addressed, revealed and remedied, that would more likely debase it and erode public trust and confidence in the constitutional democracy that Trinidad and Tobago declares itself to be. Can it be that a law that is inconsistent with the Constitution is void (section 2), but an executive action that is inconsistent with the Constitution is unreviewable?²⁰

- (mm) It is well settled that the common law of England which is introduced in the colony does not include the whole of the *lex et consuetude parliamenti*. Members of the legislative assembly do not enjoy all the privileges and the immunity from control by court of justice which are enjoyed by members of the Parliament of the United Kingdom, but only such of those privileges and so much of that immunity as are essential to enable them to carry out their functions under the colonial Constitution.²¹
- (nn) The colonial Constitution has been replaced with the Independence Constitution that declares that it is the supreme law of the State, and that any laws which is inconsistent with it, are considered void to the extent of the inconsistency.²² The Supreme law clause of the Constitution declares that the provisions of the Constitution shall prevail, thus in the modern constitutional supremacy, there can be no necessity that allows Parliament to act in contravention of the constitution, whether in matters of internal procedure and management, or in substantive law making. Therefore while 'Parliament is the policeman of its own procedure,'²³ the courts have a constitutional duty to ensure that this 'policeman' does his policing without breach of the Constitution.²⁴
- (oo) Parliament should conduct its internal affairs in a manner consistent with the provisions of the Constitution recognizing that unlike the United

²⁰ Dumas supra paragraph 115

²¹ Rediffusion (Hong Kong) Ltd. v A.G. of Hong Kong [1970] 1136 at 1154

²² Section 2 of the Constitution

²³ Nicholls Esprit and Others v Speaker of the House of Assembly and Others

²⁴ Brantley and Others v Martin and Others

Kingdom, Trinidad and Tobago is overseen by Constitutional supremacy. The written Constitution of Trinidad and Tobago, like all other written constitutions styled on the Westminster model, has displaced the common law doctrine of general competence and unqualified supremacy of Parliament.²⁵ Parliament's right of control over the internal management of its own affairs is a privilege which history has shown is one which is necessary as being essential to the discharge to its lawful functions.

- (pp) The courts recognize that Parliament has exclusive control over the conduct of its own affairs. The courts will not allow any challenge to be made to what is said or done within the walls of Parliament in performance of its legislative functions.²⁶
- (qq) Section 2 of the Constitution expressly provides that law or conduct inconsistent with the constitution is invalid and the obligations imposed by it must be fulfilled. It follows that any citizen adversely affected by any decree, order or action by any official or body, which is not properly authorized by the constitution is entitled to the protection of the Courts. This would invoke the section 4 (b) right of the Claimant.
- (rr) No Parliament, no official and no institution is immune from judicial scrutiny in such circumstances. It is therefore necessary to examine the provisions of the Constitution and the standing orders made thereunder to determine whether there is any constitutional authority which entitles the Privileges Committee to act in the manner that it proposes in relation to the Claimant in the circumstances relied on by the Claimant.²⁷
- (ss) Section 56(1) of the Constitution provides that subject to the provisions of this Constitution, each House may regulate its own procedures. This does not vest the Parliament with an absolute ouster of the Court's jurisdiction

²⁵ *Lange v Australian Broadcasting Corporation* (1997) 189 CLR 520

²⁶ *Bahamas Methodist Church v Symmonette* (2005) 59 WIR 1

²⁷ *The Speaker v De Lille* Case No. 297 of 1998, August 26, 1999 per Mahomed CJ at para. 14

to inquire in matters of Parliament. Section 56(1) gives constitutional recognition to the Privileges of Parliament. "Privileges is an important part of the law and custom of Parliament, but aspects of the law are still obscure. It has been developed over centuries by the response of Parliament, especially the commons, to changing circumstances and also, since privileges affects those outside Parliament, by decisions of the Courts. Since neither House separately exercises legislative supremacy, neither House can by its own resolution create new privileges. *When a matter of privilege is disputed, 'it is a matter for the courts to decide whether a privilege exists'*"²⁸.

- (tt) The Courts are entitled to enquire into the existence and extent of any privilege claimed by the House of Assembly. Moreover, the Courts will intervene where Parliament, or the Speaker, has exceeded its powers, or has claimed for itself powers that it did not have, or has acted in a manner clearly inconsistent with constitutional provisions.²⁹

- (uu) It is a well-established constitutional principle firmly rooted in the soil of the doctrine of separation of powers that the court has no jurisdiction to judicially review the working or operations of the National Assembly except for the purpose of determining whether the National Assembly has acted unconstitutionally or contrary to law. Thus, the National Assembly can conduct its affairs or business free from judicial intervention or interference so long as its conduct does not run counter to any provision of the constitution or the law of the land. A motion to judicially review the conduct of the National Assembly must therefore be premised on a claim of unconstitutional or illegal conduct on the part of the National Assembly. If such a claim is apparent on the motion paper, then the court is moved to judicially review the conduct of the National Assembly for unconstitutionality or illegality. The jurisdiction of the court is invoked and

²⁸ Constitutional and Administrative Law, 14th edn. page 223

²⁹ Hughes v Rogers Civil Suits Nos. 99 and 101 of 1999

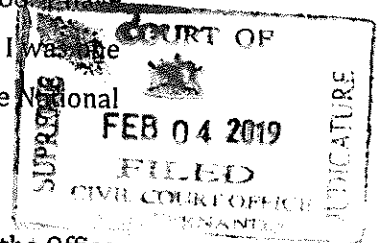
the submission that the court has no jurisdiction to review the operations or conduct of the National Assembly cannot successfully be made³⁰.

5. I am a citizen of The Republic of Trinidad and Tobago. I have many years of parliamentary experience. I have served as a Member of Parliament since 2001. I am the current Member of Parliament for the constituency of Oropouche East presiding over 28,179 constituents.
6. During my pursuit of academia I have acquired four tertiary level degrees. I possess a Bachelor of Science Degree with Honours in Government from the University of the West Indies, St. Augustine, as well as a Bachelor of Laws from the University of London. Additionally, I hold a Master of Arts Degree in Labour and Development, graduating Magna Cum Laude which I attained during the period 1991-1992. I also hold a Doctor of Philosophy (PhD) in Development Studies, which I attained during the period 1995-1998. My postgraduate qualifications were earned under a full scholarship from the Governments of the Netherlands and Germany, at the Institute of Social Studies (ISS), The Hague, Holland.
7. At the Institute of Social Studies (ISS), Holland, I specialized in Industrialization, Labour Relations and Urban Employment and my thesis received the first cum laude distinction in the history of the Ph.D. program at the ISS. I was also the first Caribbean student to head the ISS's Students' Council, and this provided me with unique exposure to European and international developmental models through extensive interface and travel, including contact with political and labour leaders, as well with fellow international graduate level students and academic staff.
8. I was a part-time tutor in politics at UWI during the period 1988-1996. I worked as Head of the Department of Education, Research and Training, All Trinidad Sugar and General Workers Trade Union during the period

³⁰ Attorney General of Guyana v David Granger and Raphael Trotman (Speaker of the National Assembly) CM No. 94 of 2012 per Chang CJ

1989-1995 and was a Teaching and Research Assistant (TRA) at the Institute of Social Studies, Holland during the period 1995-1998.

9. I was also advisor to the All Trinidad Sugar and General Workers Trade Union during the year 1999 and served as Industrial Relations Consultant/Advisor to the North West Regional Health Authority (NWRHA), Port-of-Spain for the years 1999-2000. During this time I also lectured part-time at UWI, St. Augustine. I was also a lecturer at Institute of Social Studies, Holland in the year 2000. I have lectured in the areas of Industrial Relations and Human Resource Management (HRM) at the UWI, St. Augustine and worked as an Industrial Relations consultant in Trinidad and Tobago and the wider Caribbean.
10. I have spent my entire adult life in the field of politics. I joined the All Trinidad Sugar and General Workers Trade Union (ATS/GWTU) which spawned the political movements emanating from Labour, immediately upon graduating from the University of the West Indies in 1988. I have served as the Youth Officer of the United National Congress and I was one of the key speakers at its memorable inaugural convention at the National Stadium in 1989.
12. In 1999, I was appointed as Director, Policy Monitoring Unit, in the Office of the Prime Minister during the term of Prime Minister Basdeo Panday. In the Cabinet of Prime Minister Panday, I was a Minister in the Ministry of Labour, Manpower and Industrial Development and was later appointed Minister of Communications and Information Technology. I have served as Chairman of the seminal Public Accounts Committee during the years 2007-2010 and I have served on numerous Committees of the Parliament of Trinidad and Tobago.
13. I served as a senior Government Minister holding successively, the portfolios of Housing, the Environment, Land and Marine Affairs, and finally Housing and Urban Development during the period 2010-2015



under Prime Minister Persad-Bissessar. During this time I had responsibility and oversaw some of the major developmental projects in Trinidad and Tobago, including but not limited the completion of the San Fernando Teaching Hospital, the construction of the Couva Children's Hospital, the construction of eight police stations throughout the country, the commencement of the construction of the Arima and Point Fortin hospitals and the construction of more than 7000 homes by the Housing Development Corporation. During this period I acted regularly as Minister of Foreign Affairs but was also Leader of the House. During this period, some of the most fundamental reforms since Independence to the Standing Orders of Parliament were introduced.

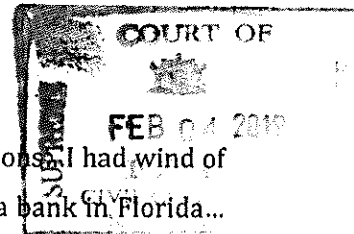
14. On the 9th October 2018, I was present in Parliament participating in the debate on the Appropriation Bill 2018. During my presentation I focused on the allegations of corruption that have been made against the present administration led by the Honourable Prime Minister Dr. Keith Rowley. In contributing to the debate I revealed certain information pertaining to certain foreign bank accounts. When I made these statements I noticed that the Members of the government present in the parliamentary chamber at the time including the Prime Minister became very agitated and began shouting at me. I had to seek the protection of the Speaker of the House of Representatives. I placed this information in the public domain in the discharge of my parliamentary oath to uphold the law and the constitution. Public accountability, transparency and integrity in public life are pillars upon which our democracy is built and where allegations of corruption are made there is a duty upon public officials to answer these allegations.
15. On the 10th October 2018, I was present in Parliament when I heard the Member of Parliament for Arouca/Maloney, the Honourable Camille Robinson-Regis, Minister of Planning and Development move a Motion of Privilege against me for statements that I had made one day earlier. I heard the Honourable Member recite the following words:-

Thank you very kindly, Madam Speaker. Madam Speaker, I beg to move a matter directly concerning the privileges of this House. Madam Speaker, during the debate in this House yesterday, October 9th, the Member for Oropouche East made statements in this House which included false and wholly fictitious allegations against a Member of this House. In making the statements, the Member for Oropouche East presented them to this House as matters of fact and freely and voluntarily took responsibility for them. Madam Speaker, the Member referred to cheque payments made, at or around June 2017 from a company named A&V Drilling Company Limited, to different contractors. He added and I quote:

“Deokiesingh has gone, but you see, Madam Speaker, one day almost I think in a humorous way, the Member for Port of Spain North/St. Ann’s West, my very dear friend from Port of Spain North/ St. Ann’s West...jokingly said to me that he understood I was going to Miami a lot and the Americans he said, or somebody was interested in my travel. So today, I want to explain to him the nature of my travel.”

I continue to quote, Madam Speaker:

“You see, Madam Speaker, I did journey on a few occasions. I had wind of something. And I had information that pointed me to a bank in Florida... Madam Speaker, this bank has documents at the bank to a beneficiary account number, IBAN, foreign, with a number 114515. No purpose of funds, so it is a transfer document, beneficiary recipients, no purpose of funds, but additional instructions for attention. There are two names here. One is Vidya Deokiesingh...Now, what would this Petrotrin employee be doing with banking business in Florida? What? The second name I cannot call in the Parliament. I cannot. The second name I cannot call. But you see, Madam Speaker, I cannot call the second name but I asked a week or two ago, I asked the Member for Diego Martin West whether he had any interest in AV Drilling and he wanted to fight me. He said, ‘Come outside on the pavement.’ Today,”—I say—“come inside in the House.”



After he was challenged based on a valid point of order, the Member continued making allegations based on documents in his possession, the source and date of which he refused to reveal. Madam Speaker, again I quote:

"This document, Madam Speaker, suggests that there are some banking transactions and information involving Mr. Vidya Deokiesingh or one Vidya Deokiesingh. There is no Mr. or Mrs. there, but Vidya Deokiesingh and another name of a Member of the House. Would you wish me to call that name?...

...Madam Speaker, I really do have a couple more points to make, so I will just indicate, according to your ruling, that the two names I have here, 'Additional instructions, Attention', V-I-D-Y-A D-E-O-K-I-E-S-I-N-G-H and the second name, K-E-I-T-H R-O-W-L-E-Y."

He continued and again I quote, Madam Speaker:

"Madam Speaker, it has also been in the public domain before today. This is not the first time now, before today, it was in the public domain on a site, on a website of a reference in relation to the AV Drilling matter, a reference to one Charlie Diaz...Because it was in the public domain already that there was information being asked, purportedly being asked for, on Charlie Diaz. And information pertaining to the banking business of Charlie Diaz."

I continue to quote, Madam Speaker:

"It has also been in the public domain so what I am saying now is certainly not fresh, that, in an email from the Internet which was circulated months ago, there was an email from one Justin Soogrim. And Justin Soogrim is sending an email on an email address of Vivian Baksh."

Thank you very kindly, Madam Speaker. And Madam Speaker, I continue to quote:

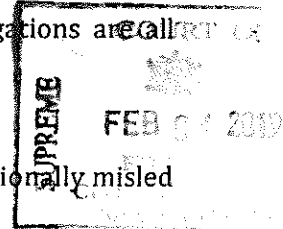
"This was already in the public domain, so this is not new. Good morning hon. Prime Minister, the following is the banking particulars for Mr. Charlie Diaz as requested. Bank information, C&C International Trading bank

account, and all the accounts there. This is old information; this is not new information.”

Madam Speaker, a consideration of the Member’s Hansard record will reveal a Member, who by his actions was plainly hesitant. Obviously, unconvinced of the veracity of his statements, but who was determined to mislead this House and cast negative aspersions on another Member and then run. Madam Speaker, that amounts to high contempt of this House. [Desk thumping] These statements by the Member have been covered by both the print and electronic media, including social media. They have gone far and wide. As you know, Madam Speaker, the Parliament has several platforms over which it streams and broadcasts its proceedings. So these statements have been widely published. Additionally, they have been the talking point of several radio programmes this morning. Madam Speaker, the sole purpose of these statements, albeit incongruous and disjointed, was to seek to contrive allegations of a very serious nature against the Member for Diego Martin West. These allegations are all untrue. In making these statements:

- (i) The Member for Oropouche East willfully and intentionally misled the House;
- (ii) The Member for Oropouche East made injurious allegations against the Member for Diego Martin West when no substantive Motion was before the House. Madam Speaker, that was intentional;
- (iii) The Member for Oropouche East relied upon undated and patently fictitious documents which the Member, any Member, should have known were deceptive and false;
- (iv) The Member for Oropouche East undermined the dignity of the House by abusing the privilege of freedom of speech in a most offensive manner.

Madam Speaker, in moving this Motion of Privilege today in this House, I ask you to consider that the Member sought to convince you and this



Honourable House that he had credible information. After all, in his own words, he journeyed several times to Miami to conduct an investigation because he had wind of something that led him to a bank. This bank had in his words "documents at the bank" inferring that he obtained documents from this bank. The Member chose not to share such documents with this House, but caused two slips of paper to be circulated on UNC Facebook sites and to be otherwise circulated by Opposition activists. And, Madam Speaker, these activists include UNC Councillor Marisa Ramlogan, Attorney at Law Darryl Heeralal and economist Patrick Watson. No responsible person could consider the information being circulated to be trustworthy, and today I am providing the Clerk with copies of these documents. Madam Speaker, when you look at the information you will observe, they are nothing but flimsy pieces of paper. The so-called bank document is unsigned, unstamped, undated, unauthentic, and on its very face appears to be bogus. The other flimsy piece of paper is supposedly an email that the Member claims was found on the Internet, entitled "Banking Coordinates". The privilege of freedom of speech is regarded as the most important of privileges and, Madam Speaker, I ask you to consider the seriousness of this matter which at first glance there can be no doubt that a serious misleading of the House has occurred. Moreover, Madam Speaker, this Member has brought this House into odium and ridicule by his reckless behaviour and sinister conduct which, notwithstanding the cloak of parliamentary cover, can be clearly seen to be no more than a wicked ungodly plot by dangerous and devious persons targeted at the Member for Diego Martin West. I therefore move that the statements of the Member for Oropouche East be referred to the Committee of Privileges as a serious matter of high contempt of this House for investigation and report. I beg to move.

16. I then heard the Speaker reserve her decision on the motion brought against me. From my years of parliamentary experience, I took this matter very seriously as I understood the risk of being brought before the Committee of Privileges. I was concerned that the government was seeking

to use the Standing Orders of the Parliament to silence me and to attempt to find a way to maliciously and spitefully use their majority in the Parliament to remove me from the House.

15. On the said date, I heard the Member of Parliament for Laventille West the Honourable Mr. Fitzgerald Hinds allege that in cross talk I had threatened him. I was surprised and shocked at this allegation by the Honourable Member that I had engaged in criminal conduct. I heard the Honourable Mr. Hinds say across the Parliament "What! I am being threatened".

16. I have been advised by my Attorneys-at-Law and verily believe the same to be true that threatening language is a criminal offence under section 49 of the Summary Offences Act Chap. 11:02. I took this allegation very seriously because in the subsequent days that followed, I read in a newspaper and saw in the electronic media that this matter was being investigated by the Trinidad and Tobago police service.

17. On the 16th October 2018, I was present in Parliament when I heard the Speaker of the House of Representatives deliver her decision with respect to the motion moved on the 10th October 2018 regarding the statements that I made on the 9th October 2018. I heard the Speaker of the House of Representatives in her decision state that she was satisfied that a prima facie case had been made out against me and that this matter would be referred to the Committee of Privileges. I heard the Speaker of the House of Representatives say,

Honourable Members, I now will deliver my ruling, based on a matter of privileges that was raised on the last occasion. Hon. Members, at a sitting of the House held on Wednesday, October 10, 2018, the Member for Arouca/Maloney and Leader of the House sought and was granted leave to raise a matter of privilege in accordance with Standing Order 32. Having reserved my decision at that time, I now rule, pursuant to my duty under Standing Order

32(4), on whether a prima facie case of breach of privilege has been made out, thereby warranting further investigation. Freedom of speech in Parliament is of fundamental importance. Parliament is intended to be a forum for free and frank debate, and Members should be able to raise issues without having to agonize over the exact form of words used, or providing extensive supporting evidence for any assertion made. Hon. Members, the privilege of freedom of speech enjoyed by you as Members of Parliament is, in fact, the privilege of your constituents. It is not for your personal benefit, but to enable all Members to discharge their functions in the public interest. As Speaker, it is my duty to jealously guard and defend the freedom of speech and debate. However, the freedom carries with it a responsibility to exercise the right judiciously and prudently. Therefore, the privilege of freedom of speech does not absolve Members from being accountable for statements they make. As I have repeatedly advised, Members are required to take full ownership and responsibility for things said in this House. Freedom of speech is not an exemption from the duty to research carefully, nor does it discharge Members from being circumspect before exercising the freedom. Pursuant to the Standing Orders, my sole duty is to consider whether the submission made by the Member for Arouca/Maloney suggests a reasonable possibility that a contempt has occurred. Hon. Members, I have considered the submission and I am of the view that a prima facie case of contempt has been established and that the matter should be referred to the Committee of Privileges for its investigation. In making this ruling, I do not express a decided opinion on the substantive issue, as the Committee of Privileges will thoroughly consider and investigate the matter raised, and I so rule.

18. On the said day the Honourable Camille Robinson-Regis moved another Motion of Privilege against me for the allegation that I had threatened the

Member of Parliament for Laventille West. I heard the Honourable Member say,

Madam Speaker, I beg to move a Motion of Privilege. Madam Speaker, in accordance with Standing Order 32, I seek your leave to raise a question of privilege in the House today, the first opportunity available for me to do so. Madam Speaker, on October 10, 2018, earlier in this sitting of the House before the commencement of the Standing Finance Committee and during the reply of the Minister of Finance, the Member for Oropouche East made the following statement directed to the Member for Laventille West, and I quote: "Da is why Snake have some lead for you."

Madam Speaker, this phrase "have some lead for you", Madam Speaker, is considered a grievous threat to life and limb as it is a phrase familiar to persons involved in law enforcement and frequently used by those engaged in nefarious criminal activities. Madam Speaker, unfortunately, the vulnerable youth in our society also know the meaning of this phrase, because it is common in some popular music. Madam Speaker, even more troubling, is the fact that an individual known as "Snake" has been convicted of assault against the Member for Laventille West in the conduct of his parliamentary duties in his constituency.

It is for this reason, Madam Speaker, that immediately after the utterances by the Member for Oropouche East, there was an uproar in this House. All of this was carried live on the Parliament Channel, radio station and live video feeds. Madam Speaker, you will recall that the Member for Laventille West immediately rose in protest and sought to direct your attention to the offence. By his reaction, it was clear that he apprehended a threat to his life [Laughter] from the words of the Member for Oropouche East—

Thank you, Madam Speaker. By his reaction, it was clear that he

apprehended a threat to his life from the words of the Member for Oropouche East and drew this to the immediate attention of the Chair and the House. However, the menacing words of the Member for Oropouche East were not heard by the Chair, but they were in fact heard by several Members in this House and recorded in the Hansard. They have also been covered and repeated in newspapers and on social media.

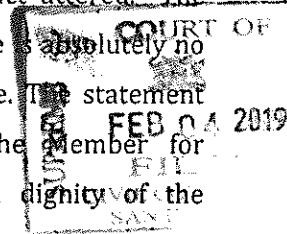
Madam Speaker, as Leader of the House, I will be the first to admit that crosstalk is common in all parliamentary assemblies and has been a feature of our House, but such crosstalk has boundaries. With respect to volume, you, Madam Speaker, call the House to order and regularly remind us not to disrupt the tenor of the debate. However, with respect to content, such crosstalk never falls below the standard expected of all hon. Members in this House until now. Madam Speaker, for a Member of this House to tell another Member during proceedings of this House, in the very face of this House and in the hearing of Members and others that, and I again quote:

“Da is why Snake have some lead for you.”

—amounts to a serious indignity to this House and an apparent threat to a Member. Madam Speaker, Erskine May states that: “It is...impossible to list every act which might be considered...a contempt”—of this House. However, any act which has the tendency to directly or indirectly obstruct or impede the House or any of its Members or officers in the performance of their functions or can produce this result by bringing the House into ridicule, may constitute a contempt. Further, Madam Speaker, any act of disorderly or indecent conduct within the precincts of this House can be treated as a contempt, particularly if it is beneath the dignity of this House and brings the House into public odium. Madam Speaker, the conduct of the Member for Oropouche East in this

regard, one, amounts to a threat to the life of another Member of this House, whether direct or indirect. Madam Speaker, it is a serious indignity to this House and brings it into public odium. Madam Speaker, this House has a duty to protect itself, and it is against this background that I raise this matter as one concerning a matter of privileges and ask for it to be sent to the Committee of Privileges for consideration and report. I beg to move.

19. On the 2nd November 2018, I was present in Parliament when the Speaker of the House of Representatives deliver her ruling on the matter involving the allegation that I committed a contempt of the House in relation to the statements that I allegedly made in relation to the Member of Parliament for Laventille West. In delivering her ruling I heard the Speaker of the House of Representatives say, in relation to the threat I allegedly made towards the Honourable Member of Parliament for Laventille West, that "The words attributed to the Member for Oropouche East in the matter raised by the Member for Arouca/Maloney were in fact uttered." The Speaker of the House of Representatives also said "there is absolutely no place for violent or threatening language in this House. The statement made, when placed in context as presented by the member for Arouca/Maloney, clearly falls below the esteem and dignity of the Parliament."



20. I was very shaken when I heard these comments from the Speaker of the House of Representatives because it was a statement that alleged that I had committed a criminal act against the Member of Parliament for Laventille West.
21. I have been advised by my Attorneys-at-Law and verily believe the same to be true that the alleged statement may constitute a criminal offence under section 49 of the Summary Offences Act Chap. 11:02.

22. On the 30th day of November 2018 Member of the Committee of Privileges, Fitzgerald Hinds MP recused himself as a member of the Committee of Privileges that was called upon to determine whether the Claimant had committed contempt of the House by statements allegedly made on the 10th October 2018. On the said 30th November 2018 Member of the Committee of Privileges, Robinson Regis MP recused herself as a member of the Committee of Privileges called upon to determine whether the Claimant had committed contempt of the House by statements allegedly made on the 9th and 10th of October 2018.

23. On the 30th November 2018 the Speaker announced,

Consequent upon the recusal of Mr. Fitzgerald Hinds from the Committee of Privileges in relation to the matter involving a statement made by the Member for Oropouche East on October 09, 2018, I hereby appoint Mr. Anthony Garcia to be a member of the Committee of Privileges temporarily in place of Mr. Fitzgerald Hinds, during its consideration of this matter. Further, hon. Members, consequent on the recusal of Mrs. Camille Robinson-Regis from the Committee of Privileges in relation to two matters currently before the Committee of Privileges, I hereby appoint Dr. Nyan Gadsby-Dolly to be a member of the Committee of Privileges temporarily in place of Mrs. Camille Robinson-Regis during its consideration of the matters currently before it.

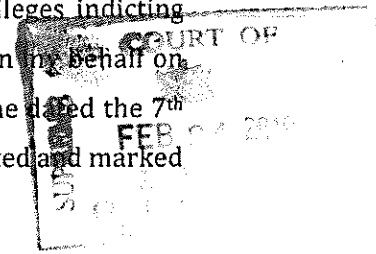
Correspondence between the parties

24. By letters dated the 30th November 2018 my Attorney-at-Law wrote to the Secretary to the Committee of Privileges and brought to the attention of the Committee my concerns regarding the lawfulness of the Committee, as then constituted, hearing these matters. I personally delivered this correspondence to the Secretary to the Committee. I am informed by my Attorney-at-Law, Mr. Aaron Mahabir and verily believe the same to be true that to date he has not received any response to this correspondence. True

copies of the letters dated the 30th November 2018 are now produced, shown to me, hereto exhibited and marked "RM 1".

25. On the 7th January 2019 I attended before the Committee of Privileges with my advisors pursuant to an invitation to attend issued by the Committee. I was shocked when I attended before the Committee as I had observed that Dr. Nyan Gadsby-Dolly and Mr. Anthony Garcia were in attendance. I could not understand how this was possible as it was my understanding from reading the Standing Orders governing proceedings of the House of Representatives that Mr. Fitzgerald Hinds had recused himself from the matter where he was the complainant and Mrs. Camille Robinson-Regis had recused herself from both matters before the Committee but both members remained members of the Committee.

26. On the said 7th January 2019 I wrote a letter to the Speaker of the House of Representatives and Chairman of the Committee of Privileges indicting that I had not received a response to the letters written on my behalf on the 30th November 2018. A true copy of my letter dated the 7th January 2019 is now produced, shown to me, hereto exhibited and marked "RM 2".



27. At the hearing on the 7th January 2019 I made inquiries of the Speaker of the House and Chairman of the Committee of Privileges as to the procedure that will be adopted by the Committee with respect to the order that the two matters will be heard and I was informed by the Speaker that both matters would be heard by the Committee at the same time.

28. At this hearing of the Committee I informed the Chairman that I had certain preliminary objections to the Committee hearing these matters and I gave an undertaking to put these objections in writing for the consideration of the Committee. By letter dated the 28th January 2019 I put in writing my objections to the Committee, as presently constituted, hearing these two

matters against me. A true copy of my letter dated the 28th January 2019 is now produced, shown to me, hereto exhibited and marked "RM 3".

29. By letter dated the 31st January 2019 the Speaker responded to my letter dated the 28th January 2019. A true copy of the letter 31st January 2019 is now produced, shown to me, hereto exhibited and marked "RM 4".

30. I am very concerned that I am not being afforded a fair hearing before the Committee of Privileges as presently constituted. I am guaranteed a fair hearing under the Constitution and the Standing Orders made under the Constitution and I am fearful that the manner in which the business of the Committee of Privileges is being conducted is not affording me a fair hearing and is in breach of my fundamental rights. I cannot understand how Mr. Hinds could sit in one matter as a witness and complainant and at the same time be a judge in another matter that concerns me. Mr. Hinds has made public statements against me about the matter that is before the Committee. A true copy of an article from the Trinidad Express that reports on the statements of Mr. Hinds is now produced, shown to me, hereto exhibited and marked "RM 5".

31. I am very mindful of the adversarial political culture that is present in our country. I have been a vocal advocate against the government and a champion for the cause of my 29,000 constituents. I have exposed the corruption of this present administration on every occasion possible in the best interest of my constituents and the people of Trinidad and Tobago. I am fearful that the government is using these allegations and this hearing before the committee of Privileges to seek to prevent me from exercising my right to freedom of speech in the Parliament. My fear has been heightened by the manner in which the proceedings are being conducted in flagrant disregard of the Standing Orders, the Constitution and the law.

32. My constituents have voiced their concerns and fears to me since these actions of the government that have formed the basis of the proceedings

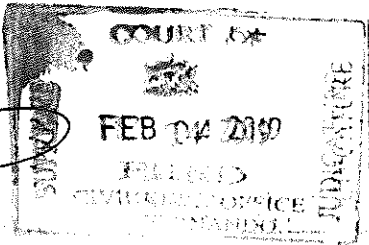
before the Committee of Privileges that they are fearful that the government is seeking to silence me and get me out of the Parliament. I am concerned that these actions not only amount to a breach of my constitutional rights but also have the potential to affect my representation of my constituents.

33. I do not wish to subject myself to an unlawful process that will inevitably lead to an unlawful result. I wish to defend myself before a Committee of Privileges that is properly constituted as provided for in law. I do not wish to subject myself to a Committee of Privileges that is infected by bias that is manipulated to arrive at a preordained result. I am fearful that if these proceedings continue adverse findings will be made by the persons who comprise this improperly constituted Committee and a report will be submitted to the House that is designed to achieve an unavoidable result. I do not wish to subject myself to these unlawful and illegal proceedings.

34. In the premises I pray that this Court will be pleased to grant me the reliefs sought herein.

Sworn to at Gordon Street)
in the City of San Fernando)
this 4th day of February, 2019)

Rahul Patel



Before me,

D. Desh Desai
COMMISSIONER OF AFFIDAVITS

VIDESH MAHABIR
COMMISSIONER OF AFFIDAVITS

Statements

From: Barry Padarath <barrypadarath@yahoo.com>
Date: Friday, February 22, 2019 at 8:27 AM
To: Keiba Jacob <ssc@ttparliament.org>
Subject: Re: Draft Interim Report Committee of Privileges

Madam Secretary,

Thank you for your correspondence dated February 21st 2019.

After careful perusal of the interim report I wish to register my concerns and my correction to what is contained in the report.

At paragraph 8 of the interim report my colleague MP Indarsingh and I do not accept that there was any power to appoint any temporary members to the Committee as this is not provided for in the Standing Orders of the House of Representatives and would result in the composition of the Committee being in breach of the Standing Orders. This matter was brought to the attention of the Honourable Speaker who failed to address this issue in a satisfactory manner.

With respect to the contents of paragraph 11 of the interim report the concerns of the Member of Parliament for Oropouche East were the subject of a pre-action letter dated the 30th November 2018. This correspondence was brought to the attention of the Committee on the 30th November 2018 and upon being told of this correspondence written to the Committee by Attorney-at-Law acting on behalf of the Member of Parliament for Oropouche East the Speaker indicated to the Committee that she had no intention to respond to “strangers” to the Committee. I did not agree with this approach that was not put to a vote of the Committee.

At paragraph 14 I raised a concern about the duty of the Committee to observe the rules of natural justice as expressly set out in the Standing Orders. The issue I raised concerning a Member who had already publicly voiced a position on a matter before the Committee is a matter that the drafters of the Standing Orders specifically considered and provided for in the Standing Orders and this very relevant fact was omitted from the interim report.

At paragraph 20 of the interim report it is stated that the “Speaker responded to the Member for Oropouche East, by letter from the Clerk of the House dated January 31, 2019”. What is omitted from your report is the fact that the response of the Speaker was not representation of the Committee as the response was not disclosed or discussed with the Committee before it was dispatched to the Member for Oropouche East. This was clearly a breach of settled parliamentary practice and procedure.

With respect to paragraph 22 and the statement that no pre-action letter was written to the Committee this statement is factually incorrect as the Member for Oropouche East wrote to the Committee on two occasions by letter dated the 30th November 2018 and by letter dated the 28th January 2019 both expressing the intention to pursue his remedies in Court if his concerns as raised in these letters were not addressed in an appropriate manner. That this could be misrepresented in the report and any reference omitted is deeply disturbing to the Members.

With respect to the contents of paragraph 24 of the interim report my colleague MP Indarsingh and I are troubled by this attempt to misrepresent what transpired in the Court proceedings. Counsel for the Speaker gave an undertaking to the Court and in those circumstances the application for injunctive relief could not be heard. The said application is still pending before the Court. What is more troubling and of grave concern to us the Members is that the action of the Speaker to retain Senior Counsel and give instructions was carried out without the authorisation/ and or instructions of the Committee.

We are very troubled by the failure of the interim report to address the very serious issue of the Corporate Communications Department of the Parliament issuing a press release containing information with respect to the proceedings of the Committee in clear violation of the Standing Order regarding premature publication. While the interim report “acknowledges that the Speaker of the House is the guardian of the privileges, rights and immunities of the House of Representatives” this most important matter that falls within the jurisdiction of the Speaker was not addressed. This blatant omission is even more inexplicable and alarming when one considers that the issue of premature publication is addressed in the interim report in relation to another issue at paragraph 29 where one of the grounds for the actions of the Committee is stated to be, “that there is no guarantee that the rule against premature publication of proceedings will be observed. Consequently, Court proceedings could thereby be prejudiced given the worrying publication of the Committee’s in camera deliberations of January 07, 2019 in the Guardian Newspaper of January 08, 2019”

With respect to the statement at paragraph 26 of the interim report that acknowledges that the Speaker of the House is the guardian of the privileges, rights and immunities of the House of Representatives it would be useful and proper to also acknowledge that in the discharge of these duties the Speaker must act in accordance with the law and the rights that are guaranteed to each Member of Parliament by the Constitution.

At paragraph 27 of the interim report I wish to indicate that the actions that are recited therein were in breach of the undertaking given to the Court and this is a most serious matter.

Paragraph 29 does not reflect a true representation of what transpired before the Committee and if it does it would be a clear breach of the undertaking given to the court.

With respect to paragraph 30 of the report the I do not wish to give ex post facto approval to a course of action that the Speaker chose to embark upon without the approval of the Committee.

With respect to paragraph 31 and 32 of the interim report my colleague MP Indarsingh and I wish to endorse the right of every citizen to seek recourse to the High Court to seek redress where the rights guaranteed under the Constitution have been or are likely to be breached. This is a right that is conferred on every citizen by the supreme law. The contents of these respective paragraphs seeks to chastise the Member of Parliament for Oropouche East for seeking a remedy from the Court for the breach of his rights. We cannot condone the contents of these paragraphs. The action of the Member for Oropouche East is no different from that of the present Prime Minister a on a previous occasion and the action of the Member for Oropouche East has precedent in the Courts throughout the Commonwealth.

My colleague MP Indarsingh and I strongly object to the recommendations at paragraph 34 of the interim report.

I do hope that the concerns and corrections raised would be considered and reflected through the necessary amendments to this interim report.

Barry Padarath
MP

From: Rudranath Indarsingh [<mailto:rudranath43@gmail.com>]
Sent: Friday, February 22, 2019 8:55 AM
To: Committee of Privileges (HOR) <ssc@ttparliament.org>
Subject: Re: Draft Interim Report Committee of Privileges

Attn: Ms Keiba Jacob.

I refer to your email correspondence and the above captioned subject matter and after perusal of the said report, I am not in agreement with the contents of same and as such I wish to highlight the following,

Clause 11, that at the first meeting the committee discussed the issue of whether the committee was duly and legally constituted, which has been omitted from the attached report and do not accept there was any power to appoint any temporary members to the committee.

Clause 16, I am not in agreement with the last sentence and it should read “the advice was noted by your Committee”.

Clause 25, I do not agree with the current wording because as a member of the committee I was not consulted in relation to the decision in the said clause and the actions which therein followed.

Clause 29, I am not in agreement because I have not been privy to the court order referred to in said report. In the absence of such I cannot agree to the wording of clause 29.

Clause 30, I am not in agreement with clause 30. I do not wish to give Ex facto approval to a course of action that the Speaker chose to embark upon without the approval of the committee.

Clause 31, I cannot agree to the conclusion stated herein said clause because it places an indictment on all members of the committee. I endorse the right of every citizen to seek recourse to the High Court to seek redress where the rights guaranteed under the constitution have been or are likely to be breached.

I strongly object to the recommendations at paragraphs 30 and 31 of the interim report. I hope my concerns will be addressed and find its way into the final report.

Please be guided accordingly,

Member
Rudranath Indarsingh.