



RULING OF THE SPEAKER OF THE HOUSE ON SECTION 36 OF THE CONSTITUTION

1. Honourable Members, it was not my intention to address you at the beginning of today's proceedings. However, I am in receipt of correspondence under the hand of the Leader of the Opposition and Member for Siparia, the Hon. Kamla Persad-Bissessar, SC, MP, raising several issues which I am compelled to address.
2. It is my hope that by addressing Honourable Members collectively, any and all misapprehensions, misconceptions and misconstructions will be dispelled.
3. The Leader of the Opposition has raised, by my assessment, three matters; **firstly**, whether a debate ensues when a motion pursuant to section 36 of the Constitution is proposed, and if so, at what stage? and by which body? **secondly**, an assertion that guidelines issued by the Speaker, in relation to these proceedings, are ultra vires the Constitution and **thirdly**, accusations of bias levelled against this Chair and a Member of the other place.
4. By now, we are all familiar with the provisions of section 36 of the Constitution. It is, after all, the reason we are assembled. However, I shall take this opportunity to remind Honourable Members of its provisions:

36. (1) The President shall be removed from office where—

- (a) *a motion that his removal from office should be investigated by a tribunal is proposed in the House of Representatives;*
- (b) *the motion states with full particulars the grounds on which his removal from office is proposed, and is signed by not less than one-third of the total membership of the House of Representatives;*
- (c) *the motion is adopted by the vote of not less than two-thirds of the total membership of the Senate and the House of Representatives assembled together;*
- (d) *a tribunal consisting of the Chief Justice and four other Judges appointed by him, being as far as practicable the most senior Judges, investigate the complaint and report on the facts to the House of Representatives;*
- (e) *the Senate and the House of Representatives assembled together on the summons of the Speaker consider the report and by resolution supported by the votes of not less than two-thirds of the total membership of the Senate and the House of Representatives assembled together declare that he shall be removed from office.”*

5. I shall now treat with the three matters referred to earlier, in turn:

Whether a debate ensues when a motion pursuant to section 36 of the Constitution is proposed and if so, at what stage, and by which body.

6. A motion is defined as a proposal brought before the House for a decision. In general, motions are indeed debatable and can be amended. However, there are several exceptions and I am certain that the more seasoned Parliamentarians, including the Honourable Leader of the Opposition, are familiar with them.
7. By way of example, a privilege motion does not trigger a debate. It is a proposal that an investigation is warranted. It is purely procedural. A privilege motion is never debated because it is an originating procedural motion, it is simply a complaint accompanied by grounds upon which the complaint is based. If in the opinion of the Speaker the grounds have established a prima facie case, then the privilege motion is, **without more**, referred to the relevant Committee for investigation and report. It is only subsequent to the report of the investigating Committee to the House that a debate takes place on the Committee's findings and recommendations.
8. Therefore, it is well-established parliamentary practice and procedure that the term "motion" does not always mean that a debate is automatically initiated.
9. The determination of whether or not a motion proposed under section 36(1)(a) is debatable can easily be gleaned upon a careful examination of the Constitution. We all know that the first rule of statutory interpretation is the literal approach and the language used by the framers is very instructive.
10. It is clear, based on the language used in section 36, that this process has four distinct procedural steps: one, the signed motion is **proposed**, two, the motion must then be **adopted**, three, a tribunal will **investigate** and four, the report of this tribunal is **considered**.
11. Honourable Members, I have been advised, and it is also my considered view, that the very first stage of this process, that is, the proposal of the motion, is purely originating and procedural. The motion with,

a. full particulars; and
b. the required signatures appended,
is proposed to the House. This is done by the proposer reading the motion into the records of the House, similar to the reading of a privilege motion.

12. At this stage, the Constitution does not provide, expressly or by implication, for a debate.
13. Thereafter, the motion progresses through the other three stages. The process as set out in the Constitution is pellucid. The next stage is the vote to adopt the motion as proposed in the House of Representatives. **This conveys the unequivocal intention of the framers of the Constitution.**
14. To seek to compare this motion with a standing order 41 motion is misguided. A standing order 41 motion, which initiates a debate, is decided by a majority vote in the House. The procedural motion in section 36 of the Constitution requires only the signatures of at least one-third of the membership of the House to advance to the next stage.
15. **Surely**, the Hon. Leader of the Opposition is not suggesting that the Speaker of the House insert words into the Constitution that are not there.
16. The Leader of the Opposition's letter also seems to suggest that the debate she desires should take place in the Electoral College. Indeed, the Member asserted that *"it is absurd to ask the Members of the House and Senate to vote on such an important motion without a debate."*
17. However, it is strikingly odd that the Leader of the Opposition would refer to a clear provision of the Constitution as "absurd". All of us assembled here swore an Oath to uphold the Constitution, the very Constitution that the Member is now labeling as absurd because it is at variance with her misguided opinion.
18. The Honourable Leader of the Opposition is certainly free to hold such a view, but this position is contrary to the provisions of the Constitution.

Section 36 (1)(c) does not contemplate a debate by the Electoral College at this stage.

19. Section 36(1)(b) identifies the motion as a document containing the full particulars and the grounds on which the complaint is based together with the requisite signatures. It was for the Honourable Leader of the Opposition to ensure that her document contained sufficient details, that is to say **full particulars**, to assist the Electoral College in determining whether her complaint warrants an investigation by a tribunal.
20. Interestingly, Honourable Members, the Constitution provides that upon receipt of the report of the tribunal headed by the Chief Justice, the Electoral College, on the summons of the Speaker, **considers the report**. Honourable Members are asked to note the clear distinction in the wording of section 36(1)(e) of the Constitution. It is at this stage that the Constitution provides for a debate to take place by the Electoral College.
21. Admittedly, a motion to trigger the removal of a President is rarely invoked. In fact, the framers of the Constitution intended that when the provision is invoked, the complaint and the particulars must be sufficiently so sufficiently weighty that it would be likely to succeed.
22. This is evident from paragraph 162 and 163 of the Wooding Commission. Paragraph 162 states as follows:

“We thought it necessary to make provision for removing the President from office although it is expected that this eventuality will never arise.

It continues at paragraph 163:

*“The recommended procedure for his removal as set out in the attached draft constitution is designed basically to make it unlikely that the procedure will be set in motion unless there is **near** certainty of the likelihood of its succeeding.”*

Guidelines issued in relation to these proceedings are ultra vires

23. I trust that all Honourable Members now appreciate that as Speaker of the House, I am heavily guided by the Constitution of the Republic of Trinidad and Tobago for the purposes of this procedure.
24. It is the Constitution itself that authorises the making of guidelines by the person who sits in this Chair. In this regard, Members are directed to regulations 3 and 23 of the Electoral College Regulations, which are made pursuant to section 28(4) of the Constitution of the Republic of Trinidad and Tobago.
25. I assure Members that, in this matter, quite extensive and substantial research has been undertaken by the very experts who have competently guided the Chair long before I became its occupant. These experts are in fact the principal advisers on practice and procedure in this part of the Commonwealth.
26. Their research was quite helpful to me and they directed me to the Constitutions of Nigeria, Kenya and several other Commonwealth jurisdictions which utilize similar constitutional language in relation to provisions for the removal of a President. This research, along with the provisions of our Republican Constitution formed the basis of the Guidelines for today's proceedings.

Accusations of bias

27. Honourable Members, I must express that I am astounded by the claims of bias made by the Honourable Leader of the Opposition and even further perplexed by the factors submitted in support of same.
28. I am of the opinion that these issues do not arise.
29. It is absurd to suggest that any or every person who has participated in processes that are not the specific subject of this motion should be disqualified from participating in these proceedings.
30. Many Honourable Members here have sat in Cabinet, have held or currently hold Ministerial portfolios, have participated in debates, have asked questions and filed motions on issues which may be perceived as related (**although irrelevant**) to this matter.

31. The claim of the Honourable Leader of the Opposition, taken to its logical conclusion, would suggest, that even the proposer and the Members who signed in support may be perceived as biased and should be disallowed from participating as well. NO right thinking person will see the remotest connection between that 2009 Order and the subject matter of the Motion at hand.
32. The assertion is absolutely illogical and I reject it outright.
33. I am obliged to resist the urgings of the Honourable Leader of the Opposition that I seek to influence or advise or convince any Member of Parliament to refrain from participating in this process, as to do so would be a travesty of the very democratic principles which the Member purports to advance.
34. To acquiesce to any of the overtures contained in the letter penned by the Leader of the Opposition, would, in my respectful opinion, amount to an affront to the Constitution of the Republic of Trinidad and Tobago.
35. I cannot, and I will not assume upon myself, the power to construe the words of the Constitution in a way which is inconsistent with its clear intention, simply to appease the competing interests of those involved.

Bridgid Annisette-George, MP
Speaker of the House

I so rule.

October 21, 2021