

**FIRST REPORT OF
THE COMMITTEE OF PRIVILEGES OF
THE HOUSE OF REPRESENTATIVES
(2004 - 2005 SESSION)**

FILE I

**LETTERS OF COMPLAINT
AND SPEAKER'S RULING**

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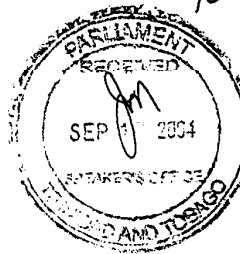
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Dr. Keith Rowley, MP

September 16, 2004

Hon. Barendra Sinanan, MP
Speaker of the House of Representatives
The Red House
Abercromby Street
Port of Spain



Hon. Speaker,

Request to raise a matter of Privilege

I seek your leave, in accordance with Standing Order 27(2), to raise a matter directly concerning the privileges of the House, at the sitting of the House to be held on Friday September 17, 2004.

The matter concerns an incident which took place while I was in the precincts of Parliament prior to the Sitting held on Wednesday September 15, 2004. At or about 1.00 p.m. on that day, I was seated in the Members' Lounge in the company of the Members of Parliament for the constituencies of Oropouche, Couva South and Tobago West. The Member of Parliament for Fyzabad entered the Lounge and joined the group. A conversation ensued during which the Member for Fyzabad accused me of being a racist in the performance of my duties as Minister of Housing. He repeated the accusation more than once and further stated that the Government and Political Party to which I belong was racist. His tone of voice was loud and his language was insulting and abusive.

Mr. Speaker, it is well established in the law of Parliament that it is a breach of privilege and contempt of the House to obstruct, insult or molest a member while in the execution of his duties, that is while he is attending the House or when he is coming to, or going from, the House.

Mays Parliamentary Practice, 22nd Edition, page 121 states: "It is a contempt to molest a Member of either House while attending the House, or coming to or going from it and in the eighteenth century both Houses roundly condemned 'assaulting, insulting or menacing Lords or Members' going to or coming from the House or trying by force to influence them in their conduct in Parliament".

Mr. Speaker, although I was undoubtedly insulted and molested by the Honourable Member for Fyzabad prior to Wednesday's Sitting, I resisted and would have continued to resist raising this unsavoury incident in this House if the offence had not been compounded by the subsequent false reports that have emanated in the electronic media and published in the newspapers about this incident. I view the continued repetition of these false allegations as a blatant attempt to tarnish my reputation and to intimidate me in the performance of my duties as an elected member of this House.

Mr. Speaker at page 285 of the 5th Edition of the Text "**Practice and Procedures of Parliament**" which relates to the both Houses of Parliament in India, it states: "*Insults offered to members on their way to or from the House have always been deemed high breaches of privilege. Similarly, to molest a member on account of his conduct in Parliament is a breach of Privilege.*"

In the following instances members and others have been punished for molesting members-

Harassment and ill-treatment of a member while coming to or returning after attending the session of the House or a Committee meeting;

Assaulting members within the precincts of the House;

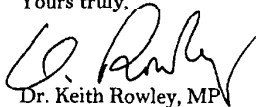
Using insulting or abusive language against members within the precincts of the House;

Mr. Speaker, Parliamentary Privileges are certain rights and immunities enjoyed by the House and its Committees collectively as well as by Members of this House, individually, which exist to safeguard the freedom, authority and the dignity of our Parliament and to ensure that we, as Members, can perform our duties freely, without hindrance. One such privilege or right is the freedom from intimidation and molestation as we go about our parliamentary business.

Mr. Speaker, the Member for Fyzabad by his utterances verbally attacked and insulted me in the precincts of this Parliament in the most indecent and dishonourable manner. This can be nothing less than a breach of privilege. In addition Mr. Speaker, the conveying to the public a false version of the incident, by Members of this House has resulted in the denigration of this entire House and all honourable Members and has brought odium upon this honourable Institution. I therefore submit that this matter demands the attention of the House and I move that it be referred to the Committee of Privileges forthwith for urgent and immediate action.

Mr. Speaker, as you will by now be aware this unsavoury incident took place at approximately 1:00 p.m. before the sitting of the House on Friday 15th September. Arising from this incident allegations of assault and beating resulting in physical injury and distress have been reported to the police. I have every confidence that the relevant authorities will ensure that all evidence relating to this incident will be gathered and secured for future use, as necessary, in the relevant quarters.

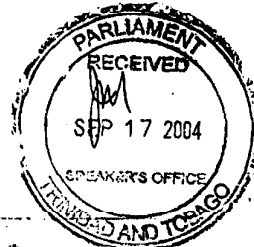
Yours truly,



Dr. Keith Rowley, MP
Member for Diego Martin West



REPUBLIC OF TRINIDAD AND TOBAGO
OFFICE OF THE MEMBER OF PARLIAMENT
CONSTITUENCY OF FYZABAD
Chandresh L.D. Sharma



17th September, 2004

The Honourable Barendra Y. Sinanan,
Speaker of the House of Representatives,
Red House,
PORT OF SPAIN

*Rec'd
@ 11:23 am*

Dear Honourable Speaker,

I hereby seek your leave under Standing Order 27(2) to raise today Friday 17th September, 2004 at the sitting of the House of Representatives a matter concerning the privileges of the House of Representatives.

On Wednesday 15th September shortly after 1:00 pm and prior to the 1:30 pm sitting of the House on the said day I was molested by way of assault and insulting and abusive language by the Member for Diego Martin West in the precincts of the House, namely, the tearoom. On that day the said Member used insulting and abusive language to me as well as struck me in the face and chest and threw several objects at me. I sought and received medical treatment at the Port of Spain General Hospital. (See medical attached).

Erskine May's *Parliamentary Practice*, 29th edition at page 121 states:

"It is a contempt to molest a member of either House while attending the house, or coming to or going from it and in the eighteenth century both Houses roundly condemned 'assaulting, insulting or menacing Lords or Members' going to or coming from the House.... Members and others have been punished for such molestation occurring within the precincts of the House, whether by assault or insulting or abusive language."

In the circumstances, I submit that there are valid reasons to inquire into and punish the Member for Diego Martin West for having committed a breach of privilege and/or contempt of the House of Representatives.

I therefore request that this matter be forwarded to the Committee of Privileges of the House of Representatives.

Yours faithfully,

Ch. Sharma

Chandresh Sharma
MP Fyzabad

Chandresh L.D.Sharma M.P.: Government Quarters - Unity Court - Fyzabad P.O. Ph: 677-7509; Fax: 653-4613.
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RULING BY THE SPEAKER
ON MATTERS OF PRIVILEGE

Honourable Members, the success and effectiveness of any institution is dependent upon that institution being able to function in an orderly manner and the extent to which it adheres to standards of discipline, dignity and decorum. This is all the more relevant when one is referring to the parliamentary institution which embodies the will of the people and is entrusted with the responsibility of safeguarding the nation's democracy.

What are the issues before me?

2. The facts before me are that an altercation took place in the Members' Lounge of this Parliament, prior to the sitting of Wednesday September 15, 2004, which allegedly involved the use of abusive and obscene language, physical assault and the damaging of dining room tableware.

3. Legislatures in many countries are not immune to disorders and disturbances. Fistfights and boisterous scenes in many representative institutions abroad are not uncommon. On many

occasions police intervention has been sought to control the unruly and violent behaviour of Members. This happily has never occurred and I hope will never transpire in this Honourable House.

4. However, within recent times, the use of unparliamentary expressions, disorderly conduct, and more than acceptable cross talk and tumultuous debates have recurred with disturbing regularity in this House, so much so that Parliament is now perceived as too confrontational and there are concerns in the wider society of falling standards of propriety by Members of this House.

5. In the UK in 1994, a committee set up to consider standards of behaviour by MPs recommended that "Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of Parliament and never undertake any action which would bring the House or its Members generally into disrepute".

The Ruling

6. Hon. Members, privilege may be regarded as a group of rights or rules that are designed to enable the legislature to function properly. The constitution of a breach of privilege requires one of a number of things such as the molestation or threatening of a member, or blackmailing or frustration of a member in one of a number of ways that impair the member's freedom of speech and action and hence the proper carrying out of the member's duties, or the holding up of a member to public ridicule to such a degree as to impair the performance of the member's or the House's duties. Parliamentary privilege exists to protect the integrity of the House and the parliamentary process.

7. Hon. Members, the powers, privileges and immunities of this House have, in part, been codified and many may be found in the House of Representatives (Powers and Privileges) Act Chap 2:02. Others are to be found in the practice and usage of the House of Commons of the United Kingdom. I have turned to these two sources to determine whether the matters which the Members for Diego Martin West and Fyzabad have brought before me are indeed ones which require the attention of the responsible Committee of this House.

8. The precincts of Parliament are those areas which are under the Speaker's control and administration on behalf of the House and the Law of Parliament states that persons who obstruct or insult or otherwise endeavour to prevent members going about their duties in the precincts of Parliament or when going to or departing the House may be held to be in contempt of Parliament. And indeed, insults offered to members on their way to or from the House have always been deemed high breaches of privilege. Such insults could emanate from strangers but may also originate from the lips of Members themselves. This is why Speakers, including this Speaker, have repeatedly warned members not to allow banter in the Chamber to get out of hand.

9. The issue of an alleged physical assault is however a completely different matter and one which may more properly be the preserve of the criminal law of the State. This notwithstanding, for a Member to be physically attacked while on his way to attend a sitting of the House is a flagrant contempt of this House.

10. I now turn to the question of whether the matter(s) complained of should validly fall to be investigated by the Committee of Privileges of this House.

11. Hon. Members would agree that parliamentary privilege is concerned with protecting the integrity of the House. Thus, we need to bear in mind that outside their strict parliamentary duties members are in the same position as any other citizen and are not protected by parliamentary privilege, though they may have other legal protections on which they can rely. Members engage in public debate outside Parliament on public issues - this is right and proper - but such discourses do not attract the protection of parliamentary privilege unless they fall within a narrow range of possible scenarios which can negatively affect the parliamentary process.

12. The privilege against molestation or assault is available to a member only when he is obstructed or in any way molested while discharging his duties as Member of Parliament. In cases when members were assaulted while they were not performing any parliamentary duty it was held that no breach of privilege or contempt of the House had been committed.

13. Therefore, in determining whether there is a *prima facie* breach of privilege, the Speaker must differentiate between actions which directly affect Members in the performance of their duties, and

actions which affect Members but do not directly relate to the performance of their functions.

14. The fact that the alleged incident took place in the precincts of this Parliament and indeed in the Members' Lounge prior to a sitting of this House in my mind places it within the jurisdiction of this House. Moreover, having regard to the publicity that it has generated and its potential to bring the House and all honourable members into public ridicule and erode the dignity of this honourable House and its Members, I find it difficult to dismiss it as not worthy of the attention of this honourable House.

15. Members of this august House should not lose sight of the fact that as members we are expected to set the pre-eminent example for the wider society, which takes a cue from its leaders. This is especially important and most urgent in the context of the breakdown in the social order, the polarization of the two major ethnic groups and the brutality which is permeating so many layers of our society. Members of Parliament should seek to unite the country for the greater good of all, rather than to divide it for some unknown, ill-conceived and misplaced objective.

16. I therefore rule that, prima facie, a case of breach of privilege has been made out in both cases and refer these matters to the Committee of Privileges for full investigation and report.

Office of the Speaker
September 17, 2004