



**PARLIAMENT
OF THE
REPUBLIC OF TRINIDAD AND TOBAGO**

H.O.R PAPER NO. 5/ 2008

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**REPORT
OF THE
COMMITTEE OF PRIVILEGES
OF THE
HOUSE OF REPRESENTATIVES
(2007-2008)**

Ordered to be printed by the House of Representatives

ESTABLISHMENT OF COMMITTEE

At a sitting of the House of Representatives held on *Wednesday January 30, 2008*, the following Members were appointed to the Committee of Privileges of the House of Representatives for the 2007/2008 Session of the Ninth Parliament:

Mr. Barendra Sinanan, MP	-	Chairman
Miss Penelope Beckles, MP	-	Member
Mrs. Christine Kangaloo, MP	-	Member
Mr. Stanford Callender, MP	-	Member
Mr. Ramesh Lawrence Maharaj SC., MP	-	Member
Dr. Tim Gopeesingh, MP	-	Member

MANDATE

2. Your Committee is mandated by Standing Order 75 to consider and report to the House on any matter referred to it that appears to affect the powers or privileges of the House.

3. At a sitting of the House held on *Friday April 18, 2008*, a matter concerning "*Statements reflecting negatively on the Chair in the performance of his duty*" (*First Matter Referred*) was referred to your Committee.

4. At its first meeting held on *Friday May 09, 2008*, Mr. Barendra Sinanan recused himself from your Committee during its deliberations on this first matter referred. Your Committee elected Ms. Penelope Beckles to the Chair of the Committee during its deliberations on this matter.

5. Subsequently, your Committee submitted its First Interim Report to the House on Friday September 05, 2008, recommending that another Member be temporarily

appointed to this Committee, as a consequence of the withdrawal of Mr. Barendra Sinanan during deliberations on the matter.

6. Consequently, and pursuant to Standing Orders 75(3) and 94(1), at a sitting of the House held on Thursday October 02, 2008 the following Members were added to your Committee:

- Mr. Colm Imbert, MP
- Mrs. Kamla Persad-Bissessar, MP
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SECRETARY

7. Ms. Jacqui Sampson, Clerk of the House, served as Secretary to your Committee for the duration of the session with Mrs. Nataki Atiba-Dilchan and Mr. Ralph Deonarine serving as Assistant Secretaries.

FIRST MATTER REFERRED

8. The first matter referred to your Committee concerned *“Statements reflecting negatively on the Chair in the performance of his duty”*.

9. Three meetings were held, under the Chairmanship of Ms. Beckles for the consideration of this matter, viz:

- *Friday May 09, 2008*
- *Friday June 27, 2008*
- *Friday November 07, 2008*

10. Your Committee commenced its deliberations by considering preliminary questions raised by Mr. Maharaj, namely:

- a) In the event of a finding of breach of privilege, does the Committee of Privileges have the power to recommend penal sanctions?
- b) Whether the House has the jurisdiction to deal with matters of privilege which also fall under the provisions of the House of Representatives (Powers and Immunities) Act, Chap 2:02, insofar as this may result in an abuse of process? and
- c) While it is accepted that the House does indeed possess inherent disciplinary powers to deal with matters of contempt, whether the question of bias could arise when the House exercises such powers which may affect individuals?

11. Your Committee has been unable to complete its deliberations on this matter within the current session.

OTHER MATTERS REFERRED

12. At a sitting of the House held on Friday July 18, 2008, a matter concerning *the Conduct of the Government in giving answers to Questions on a timely basis* was referred to your Committee.

13. At a sitting of the House held on Monday September 29, 2008 a matter concerning *“the alleged Molestation of Members on the way to Parliament.”* was referred to Your Committee.

14. Your Committee held two meetings during which these matters were considered, viz;

- *Friday October 24, 2008*
- *Friday November 07, 2008*

15. These meetings were held under the chairmanship of Mr. Barendra Sinanan.

Second Matter

16. Your Committee is currently considering the following preliminary issues raised by Mr. Colm Imbert:

- a) whether in the UK and in other Commonwealth jurisdictions the issue of government Ministers not answering questions is treated as a matter of privilege;
- b) whether committees in other jurisdictions consider matters concurrently, particularly weighty matters.

Third Matter

17. Your Committee invited written submissions from a number of Members with a view to considering the nature of the allegations which have been made.

18. Your Committee is in the process of receiving the submissions requested.

REPORT

19. Your Committee has been unable to complete its deliberations on the matters referred to it during this session.

20. However, pursuant to Standing Order 82(1), your Committee reports to the House on the work it has done during the session and submits to the House, herewith, its minutes of proceedings.

RECOMMENDATIONS

21. Having regard to the work undertaken by your Committee on the matters referred, your Committee recommends that in the session to follow, the House consider referring these matters to the Committee of Privileges (2009 Session) and authorizing the new Committee of Privileges to consider as part of its records all the work that has been done by your Committee to date.

Respectfully submitted,

Sgd.

Barendra Sinanan
Chairman

December 10, 2008

MINUTES

OF

PROCEEDINGS

MINUTES OF THE 1st MEETING OF THE COMMITTEE OF PRIVILEGES
OF THE HOUSE OF REPRESENTATIVES (2007-2008)
HELD ON FRIDAY MAY 09, 2008
COMMITTEE ROOM NO. 3, PARLIAMENT, THE RED HOUSE, PORT OF SPAIN

PRESENT

Miss Penelope Beckles	-	Chairman
Mr. Stanford Callender	-	Member
Mrs. Christine Kangaloo	-	Member
Mr. Barendra Sinanan	-	Member
Mr. Ramesh Lawrence Maharaj SC	-	Member
Dr. Tim Gopeesingh	-	Member
Mr. Neil Jaggassar	-	Secretary
Mrs. Nataki Atiba-Dilchan	-	Asst. Secretary

COMMENCEMENT

- 1.1 The meeting was called to order at 10:15 a.m.
- 1.2 The Chairman welcomed those present.
- 1.3 Mr. Sinanan drew reference to a decision of the House of April 18, 2008 to remove him as Chair of the Committee on this matter. He also wished the records to show his withdrawal as a Member of the Committee for the duration of the matter before it.
- 1.4 The Committee accepted this decision and Mr. Sinanan exited the room.

THE APPROACH

- 2.1 The Chair invited suggestions on the procedure to be followed by the Committee in consideration of the matter referred to it.
- 2.2 Mr. Maharaj raised the following points as questions to be addressed by the Committee:
 - a. Does the Committee of Privileges have jurisdiction in contempt alleged to have been committed outside the precincts of the Parliament?
 - b. Does the Committee and the House of Representatives of Trinidad and Tobago have penal powers?
 - c. Can the Parliament be an independent and impartial tribunal for the purposes of contempt matters?

2.3 Mr. Maharaj asked Members to refer to the following documents in their consideration of these questions:

- a. May's Parliamentary Practice Pg 155
- b. Privy Council Decision in *Hinds v. the Queen*
- c. ECHR case - *Demicoli v. Malta*

2.4 Mr. Maharaj suggested that once these questions were answered, and should the Committee hold that the Committee has proper jurisdiction to determine the matter before it, then evidence must be called to prove the truth of what was alleged. He added that he intended to call a former Speaker of the House and to produce *Hansard* in support of his case.

2.5 Mr. Callender stated that he was of the opinion that Mr. Maharaj should have excused himself from the Committee while it considered that matter before it, since some of the allegations implicated him.

2.6 The Chair informed Members of a 1993 decision of the Senate, on a similar matter, in which it ruled that a member of the Committee of Privileges, although accused, was still entitled to attend its meetings.

2.7 Mrs. Kangaloo enquired whether there were procedural provisions to replace the Speaker as a member of the Committee. The Chairman indicated that the advice of the Clerk would be sought.

2.8 The Secretary was directed to collate material related to the questions raised and to circulate it to Members as soon as possible.

ADJOURNMENT

3.1 There being no other business, the Chairman adjourned the meeting to **Friday June 20, 2008** at 10 a.m.

3.2 The adjournment was taken at 11:02 a.m.

Chairman

Secretary

June 02, 2008

**MINUTES OF A MEETING OF THE COMMITTEE OF PRIVILEGES
OF THE HOUSE OF REPRESENTATIVES (2007-2008)
HELD ON FRIDAY JUNE 27, 2008
COMMITTEE ROOM NO. 3, PARLIAMENT, THE RED HOUSE, PORT OF SPAIN
(Negative Remarks against the Chair)**

PRESENT

<u>Miss Penelope Beckles</u>	-	<u>Chairman for this matter</u>
Mr. Stanford Callender	-	Member
Mrs. Christine Kangaloo	-	Member
Mr. Ramesh Lawrence Maharaj SC	-	Member
Dr. Tim Gopeesingh	-	Member
Ms. Jacqui Sampson	-	Secretary
Mrs. Nataki Atiba-Dilchan	-	Asst. Secretary

COMMENCEMENT

- 1.1 The meeting was called to order at 10:25 a.m.
- 1.2 The Chairman (for this matter) welcomed those present.

CONFIRMATION OF MINUTES

- 2.1 The motion for the confirmation of the Minutes was moved by Mr. Callender and seconded by Dr. Gopeesingh.

CONSIDERATION OF REFERRED MATTER

- 3.1 The attention of the Committee was directed to a new document of authorities submitted by Mr. Maharaj challenging the jurisdiction of the Committee to consider and report on matters of contempt.
- 3.2 Mr. Maharaj stated that he did not dispute the cases previously circulated regarding the principles that constitute contempt of Parliament. He was instead concerned with whether, subsequent to the Constitutions of 1962 and 1976, the House of Representative had the jurisdiction to deal with contempt outside its precincts.
- 3.3 Mr. Maharaj queried whether the Constitution itself, either expressly or impliedly, prohibits the exercise by Parliament of judicial power, that is, the power to function as a court.

3.4 It was agreed that prior to its consideration of the issue raised by Mr. Maharaj, the question of its membership in light of Standing Order 75(2) needed to be resolved by the House. It was agreed that the Committee should make a special report to the House on this question seeking the temporary appointment of another Member of the Committee in place of Barendra Sinanan who had recused himself from the Committee during its deliberations on this matter.

3.5 In light of the decision of the Committee, it was agreed that no further deliberations on the matter before the Committee dealing with "***negative remarks against the chair***" would take place until the Committee was constituted of "not less than six Members".

ADJOURNMENT

4.1 The Chairman adjourned the meeting of the Committee on this matter to a date to be fixed.

3.2 The adjournment was taken at 10:55 a.m.

Chairman

Secretary

June 02, 2008

**MINUTES OF A MEETING OF THE COMMITTEE OF PRIVILEGES
OF THE HOUSE OF REPRESENTATIVES (2007-2008)
HELD ON FRIDAY OCTOBER 24, 2008 IN
COMMITTEE ROOM NO. 3, PARLIAMENT, THE RED HOUSE, PORT OF SPAIN
(Matters Nos. 2 and 3 referred for consideration 2007-2008)**

PRESENT

Mr. Barendra Sinanan	-	Chairman
Mr. Colm Imbert	-	Member
Mr. Stanford Callender	-	Member
Mrs. Christine Kangaloo	-	Member
Mr. Ramesh Lawrence Maharaj SC	-	Member
Dr. Tim Gopeesingh	-	Member

Ms. Jacqui Sampson	-	Secretary
Mrs. Nataki Atiba-Dilchan	-	Asst. Secretary
Mr. Ralph Deonarine	-	Procedural Clerk

Absent

Ms. Penelope Beckles	-	Member (excused)
Mrs. Kamla Persad-Bissessar	-	Member (excused)

COMMENCEMENT

- 1.1 The meeting was called to order at 11:10 a.m.
- 1.2 The Chairman welcomed those present.
- 1.3 The Chairman informed members that Minutes of the previous meeting of the Committee will be submitted for confirmation when the Committee next meets under the Chairmanship of Miss Penelope Beckles, having regard to a decision taken by the Committee and reported to the House.

PRELIMINARY ISSUES

- 2.1 The Committee was directed to the two matters on the Agenda namely:
 1. *Conduct of Government in giving answers to Questions; and*
 2. *Molestation of Members on the way to Parliament.*

- 2.2 Mr. Imbert questioned whether it was procedurally proper for the Committee to proceed with these matters before completing the earlier matter which had been referred to it.
- 2.3 The Chairman advised that there was nothing improper in the procedure being followed. He explained that a Committee could deal with matters concurrently. He reminded the Committee that he had recused himself from the Committee for its consideration of the first matter referred to the Committee. He added that, as far as he was aware, the Committee is meeting and will continue to meet with the Deputy Speaker in the Chair to consider that matter.
- 2.4 Mr. Imbert disagreed. He felt that the Committee should conclude one matter before it commences its consideration of any other. He stated that he would be raising a formal objection to the opinion of the Chairman.

CONSIDERATION OF MATTERS BEFORE THE COMMITTEE

- 3.1 The Chairman referred the Committee to the matter concerning ***the alleged Molestation of Members on the way to Parliament.***
- 3.2 There was some discussion on the way to proceed after which the Committee agreed to proceed in the following manner:
- (i) Mr. Maharaj would provide the list of persons who have presented claims that they were molested;
 - (ii) The Clerk would write to those persons identified, inviting submissions in writing;
 - (iii) Upon receiving these submissions, the Committee would consider them and report to the House.
- 3.3 Mr. Imbert made an intervention during which he queried as to the usefulness of the exercise being undertaken by the Committee. He sought clarification on whether the recommendations of the Committee of Privileges in cases like the instant could be implemented.
- 3.4 In light of the concerns raised by Minister Imbert, the Secretary of the Committee was directed by the Chairman to research the matter and, in particular, to find relevant precedent to guide the Committee.
- 3.5 The Chairman referred to the second matter on the agenda namely ***“the Conduct of Government in giving answers to Questions on a timely basis”.***
- 3.6 There was a brief discussion on this matter during which the Chairman proposed that in its consideration of this issue, the Committee should have a look at the length of questions, the amount of detail requested, the process utilized by the Executive in answering question and possible solutions.
- 3.7 The Chairman also drew reference to the practice in three jurisdictions, including New Zealand, where it was accepted that Ministers cannot be forced to answer questions. He noted however, that in New Zealand the House can order the Minister to do so, in which case failure to answer could be punished as a contempt.

- 3.8 Mr. Imbert however expressed the view that this matter does not qualify as a matter of privilege. He therefore questioned the jurisdiction of the Committee of Privileges to consider and report to the House on this matter.
- 3.9 The Chairman requested Mr. Imbert to prepare a submission on the question of jurisdiction raised by him for the consideration of the Committee.

ADJOURNMENT

- 4.1 The Chairman adjourned the meeting to Friday November 07, 2008 at 11:30 a.m.
- 4.2 The adjournment was taken at 12:30 p.m.

Chairman

Secretary

November 03, 2008

**MINUTES OF A MEETING OF THE COMMITTEE OF PRIVILEGES
OF THE HOUSE OF REPRESENTATIVES (2007-2008)
i. HELD ON FRIDAY NOVEMBER 07, 2008
COMMITTEE ROOM NO. 3, PARLIAMENT, THE RED HOUSE, PORT OF SPAIN
(Negative Remarks against the Chair)**

PRESENT

<u>Miss Penelope Beckles</u>	-	<u>Chairman for this matter</u>
Mr. Colm Imbert	-	Member
Mr. Ramesh Lawrence Maharaj SC	-	Member
Dr. Tim Gopeesingh	-	Member

ABSENT/EXCUSED

Mr. Stanford Callender	-	Member
Mrs. Christine Kangaloo	-	Member
Mrs. Kamla Persad-Bissessar	-	Member
Ms. Jacqui Sampson	-	Secretary
Mr. Ralph Deonarine	-	Asst. Secretary

COMMENCEMENT

- 1.1 The meeting was called to order at 11:15 a.m.
- 1.2 The Chairman (for this matter) welcomed those present.

CONFIRMATION OF MINUTES

- 2.1 The motion for the confirmation of the Minutes was moved by Mr. Maharaj and seconded by Dr. Gopeesingh.

MATTERS ARISING

- 3.1 The Committee noted that pursuant to a decision taken at the last meeting, a special report was submitted to the House in relation to the composition of the Committee and that Mr. Colm Imbert and Mrs. Kamla Persad-Bissessar had been appointed to the Committee.

PRELIMINARY ISSUES

4.1 The Chairman reminded Members that at its last meeting on the instant matter, Mr. Maharaj had made a written submission on the question of jurisdiction of the Committee to deal with matters of contempt committed outside the precincts of the House. She invited Mr. Maharaj to make his oral submission on the issue.

4.2 During his submission, Mr. Maharaj referred Members to the House of Representatives (Powers and Immunities) Act, Chap 2:02 and in particular to section 10 (F) of that Act. He noted that that Act codified certain privileges and created criminal offences for breaches of specified privileges and the commission of other acts which amount to contempt of the House. He also made reference to a speech by former Lord Chancellor Lord Mc Kay at a Parliamentary Conference in Malta during which he spoke of the power of Parliament vis-à-vis the power of the Court.

4.3 Stressing that he accepted that the House does indeed possess inherent disciplinary powers to deal with matters of contempt, Mr. Maharaj raised the following specific questions:

- d) In the event of a finding of breach of privilege, does the Committee of Privileges have the power to recommend penal sanctions? and
- e) Whether the House has the jurisdiction to deal with matters of privilege which also fall under the provisions of Chap 2:02, insofar as this may result in an abuse of process? and
- f) Whether the question of bias could arise when the House exercises power (even disciplinary powers) which may affect individuals?

4.4 There was a brief discussion on the questions raised by Mr. Maharaj, at the end of which it was agreed that Mr. Maharaj would develop his questions and present them in writing for the consideration of all committee Members.

4.5 Mr. Imbert requested that the Secretary of the Committee present research on the question as to whether the committee could consider matters concurrently, particularly weighty matters.

4.6 The Chairman pointed out that that matter was in fact raised and dealt with at the meeting of the Committee chaired by Mr. Sinanan and advised that it would be proper for it to be revisited at the next meeting of the committee under Mr. Sinanan's chairmanship. She pointed out that such a meeting was in fact to immediately follow the instant meeting.

ADJOURNMENT

5.1 The Chairman adjourned the meeting of the Committee on this matter to a Friday December 05, 2008 at 10:30am.

5.2 The adjournment was taken at 12:15 p.m.

Chairman

Secretary

November 20, 2008

**MINUTES OF A MEETING OF THE COMMITTEE OF PRIVILEGES
OF THE HOUSE OF REPRESENTATIVES (2007-2008)
HELD ON FRIDAY NOVEMBER 07, 2008 IN
COMMITTEE ROOM NO. 3, PARLIAMENT, THE RED HOUSE, PORT OF SPAIN
(Matters Nos. 2 and 3 referred for consideration 2007-2008)**

PRESENT

Mr. Barendra Sinanan	-	Chairman
Ms. Pernelope Beckles	-	Member
Mr. Colm Imbert	-	Member
Mrs. Christine Kangaloo	-	Member
Mr. Ramesh Lawrence Maharaj SC	-	Member
Mrs. Kamla Persad-Bissessar	-	Member
Dr. Tim Gopeesingh	-	Member

Ms. Jacqui Sampson	-	Secretary
Mr. Ralph Deonarine	-	Asst. Secretary

Absent

Mr. Stanford Callender	-	Member (excused)
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COMMENCEMENT

- 1.1 The meeting was called to order at 12:25 p.m.
- 1.2 The Chairman welcomed those present.

ADMINISTRATIVE MATTERS

- 2.1 The Chairman informed Members that problems were being encountered with emailing documents to Members and enquired whether Members preferred to receive correspondence by hardcopy or by email.
- 2.2 There was consensus that correspondence should be sent via both methods
- 2.3 Mr. Imbert requested that Mr. Maharaj's letters to the Speaker pursuant to Standing Order 27(2) be circulated to committee Members.
- 2.4 It was agreed.

CONFIRMATION OF MINUTES

- 3.1 The motion for the confirmation of the Minutes was moved by Mr. Maharaj and seconded by Dr. Gopeesingh.
- 3.2 The minutes were confirmed subject to the following amendment;
- “Paragraph 3.2(iii), on page 2, should be amended to read **“Upon receiving these submissions, the Committee would consider them”**”.

MATTERS ARISING

4.1 With respect to the matter concerning *the alleged Molestation of Members on the way to Parliament*, the Secretary advised that, on behalf of Mr. Maharaj, Dr. Hamza Rafeeq had presented a list of names of persons who alleged that they had been molested on their way to Parliament on Friday September 12th (see paragraph 3.2(i) of minutes of 24/10/08).

4.2 The committee took note of the names submitted and agreed to invite written submissions from the following Members:

- Mr. Austin Jack Warner, MP
- Dr. Hamza Rafeeq, MP
- Mr. Subhas Panday, MP
- Mr. Chandresh Sharma, MP

4.3 The Committee agreed that it would consider the written submissions at its next meeting and thereafter decide on the way forward including whether it would be necessary to receive oral submissions as well.

4.4 With respect to the second matter namely *“the Conduct of Government in giving answers to Questions on a timely basis”*, the Committee was advised that Mr. Imbert had submitted a letter to the Speaker on the question of jurisdiction raised by him as agreed at the last meeting.

4.5 Mr. Imbert requested that the Secretary present research on whether in the UK and in other Commonwealth jurisdictions the issue of government Minister not answering questions is treated as a matter of privilege.

4.6 Mr. Imbert also requested that the Secretary research whether committees in other jurisdictions consider matters concurrently, particularly weighty matters.

4.7 The Committee agreed.

ADJOURNMENT

5.1 The Chairman adjourned the meeting to Friday December 05, 2008 at 11:00 a.m.

5.2 The adjournment was taken at 12:50 p.m.

Chairman

Secretary

November 20, 2008