



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

H.O.R PAPER NO. 8/ 2009

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**FIRST REPORT
of the
COMMITTEE OF PRIVILEGES
OF THE HOUSE OF REPRESENTATIVES
(2009 Session)**

Together with the Minutes of Proceedings

Ordered by the House of Representatives to be printed

APPOINTMENT

Friday 6th February, 2009

Pursuant to Standing Order 71(2), the Speaker appointed the following Members to serve on the Committee of Privileges for the 2009 Session:

Mr. Barendra Sinanan	-	Chairman
Mr. Colm Imbert	-	Member
Ms. Penelope Beckles	-	Member
Ms. Christine Kangaloo	-	Member
Mr. Stanford Callender	-	Member
Dr. Roodal Moonilal	-	Member
Dr. Tim Gopeesingh	-	Member
Mrs. Kamla Persad-Bissessar	-	Member

SECRETARY

The Clerk of the House, Ms. Jacqui Sampson, served as Secretary to the Committee, with Ms. Lily Broomes and Mr. Julien Ogilvie, serving as Assistant Secretaries.

TERMS OF REFERENCE

Standing Order 75(1) provides that there shall be referred to the Committee of Privileges any matter which appears to affect the powers or privileges of the House, and it shall be the duty of the Committee to consider any matter so referred and to report thereon to the House.

MATTER REFERRED

Friday 13th March, 2009

A complaint was made by the Member for Caroni East, Dr. Tim Gopeesingh in relation to a full-page advertisement in the *Trinidad Guardian* and *Express Newspaper* of Saturday March 07, 2009 by the Urban Development Corporation of Trinidad and Tobago (UDeCOTT).

In the advertisement which was headed “*Statement by Opposition MP reckless and irresponsible*”, the Board and Management of the UDeCOTT strongly condemned the statements made by the

Member and called on him to repeat his allegations outside of the Parliament Chamber.

Dr. Gopeesingh complained that the publication of such an advertisement was calculated to bring him into ridicule and odium and was an attempt to intimidate him in the execution of his duties as a Member of the House.

Friday 20th March, 2009

The Speaker announced that a prima facie case had been made out and referred the matter to the Committee of Privileges.

MEETINGS

The Committee held three (3) meetings on the following dates:

- Friday May 08, 2009
- Friday May 22, 2009
- Friday June 05, 2009

The Minutes of the meetings are attached.

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REPORT

Preliminary Issues

Dr. Tim Gopeesingh recused himself from the Committee during its deliberations on the complaint raised by him.

At its second meeting, the Committee mandated that the Urban Development Corporation of Trinidad and Tobago Limited (UDeCOTT) be invited to provide a written explanation for its actions. The relevant letter was sent to the UDeCOTT by the Secretary of the Committee on Thursday 28th May, 2009.

On Tuesday 2nd June, 2009, the UDeCOTT provided an explanation for the publication. Special recognition was given to the fact that the UDeCOTT had offered an unqualified apology for its actions.

The Committee of Privileges to whom was referred the matter of the complaint made in the House of Representatives on Friday 13th March, 2009 by Dr. Tim Gopeesingh considered the matter referred and has agreed to report as follows:

1. On Wednesday 4th March, 2009, during a debate in the House of Representatives, the Member for Caroni East stated, *inter alia*:

.....The Minister of Health told this House that UDeCott has assumed responsibility for the construction of this hospital. Imagine UDeCott again, Mr. Speaker? UDeCott which you see in the Commission of Enquiry has been doing absolutely chaotic things and has been involved in so much corruption, non-transparency and non-accountability as far as expenditure of the taxpayers' money. He said that the commencement and construction of this hospital would start in October 2008. Today, we are hearing that it would start sometime later, at the end of this year..... Another UDeCott corruption fiasco, Mr. Speaker."

2. On Saturday, 7th March, 2009, a full page advertisement appeared in the *Trinidad Guardian* and in the *Express Newspapers*, headlined: Statement by Opposition MP reckless and irresponsible.

3. The advertisement stated, inter alia;

The Board and Management of UDeCott strongly condemns the statements made by Opposition MP, Dr. Tim Gopeesingh on March 4, 2009 that the soon to be constructed Point Fortin Hospital is 'another UDeCott corruption fiasco.....UDeCott calls on the Honourable Member to repeat his spurious allegations outside of the Parliamentary Chamber.....UDeCott takes great umbrage to the Honourable Member's use of the cloak and protection of Parliamentary Privilege to senselessly defame it"

4. Prior to deliberating on the question as to whether the form and manner of the advertisement by the UDeCOTT amounted to a contempt of the House, the Committee considered the Law, precedents and learning from this and other jurisdiction relevant to this issue.

5. The Committee accepted the definition of contempt by Erskine May, to wit:

"any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results."

6. The Committee concluded that conduct which amounts, or is intended, or likely to amount, to an improper interference with the free exercise by the House or a committee of its authority or functions, or with the free performance by a Member of the Member's duties as a member, will be considered a contempt of the House.

7. The Committee accepted that challenges to repeat outside the House words spoken in debate, with the implication that what was said was untrue and a misuse of parliamentary privilege, may fall into this category and constitute a contempt, depending on the form and manner of the challenge. The Committee agreed that not every

comment by the public reflecting on what is said and done in Parliament will offend the law of parliamentary privilege but it was satisfied that any act that amounts to or could result in punishment of a Member for what he has done in the course of parliamentary proceedings is a contempt of the House.

8. After considering the form and manner of the advertisement by the UDeCOTT, the Committee was of the view that the actions by the company amounted to a contempt of the House. The Committee took note of the contents of a letter dated 02 June, 2009 from the UDeCOTT on “Question of Privilege” that the UDeCOTT was “unaware that it may be considered contempt of Parliament to challenge a Member of Parliament to repeat his assertions outside Parliament.” The Committee also noted that the UDeCOTT indicated that the advertisement in question was not published with a malicious intent towards the House or any Member of the House.

RECOMMENDATION

9. Having regard to the fact that the UDeCOTT had published the advertisements unwittingly and of the unqualified apology offered by the company, the Committee recommends no further action by the House.

Respectfully Submitted

Mr. Barendra Sinanan
Chairman

July 01, 2009

**MINUTES OF THE 1st MEETING OF THE COMMITTEE OF PRIVILEGES
OF THE HOUSE OF REPRESENTATIVES, SECOND SESSION (2009)
HELD IN COMMITTEE ROOM NO. 3, PARLIAMENT, THE RED HOUSE, PORT OF SPAIN
ON FRIDAY MAY 8, 2009**

PRESENT

Mr. Barendra Sinanan	-	Chairman
Mr. Colm Imbert	-	Member
Ms. Pennelope Beckles	-	Member
Ms. Christine Kangaloo	-	Member
Mr. Stanford Callender	-	Member
Dr. Roodal Moonilal	-	Member
Dr. Tim Gopeesingh	-	Member
Mrs. Kamla Persad-Bissessar	-	Member
Mr. Neil Jaggassar	-	Secretary (Ag.)
Ms. Lily Broomes	-	Assistant Secretary
Mr. Julien Ogilvie	-	Procedural Clerk Assistant

COMMENCEMENT

- 1.1 The meeting was called to order at 11:40 a.m.
- 1.2 The Chairman welcomed those present.

PRELIMINARY ISSUES

- 2.1 The Chairman outlined the matter for consideration.
- 2.2 Discussion ensued on a number of preliminary issues.

2.3 There was a brief discussion as to whether it was appropriate for Dr. Gopeesingh to participate in deliberations on the matter which was currently before the Committee, since he was the aggrieved party. No decision was taken on this issue.

2.4 Mr. Imbert contended that the Committee should not engage in detailed deliberation on the matter since the breach of privilege by the Urban Development Corporation of Trinidad and Tobago Limited (UDeCOTT) was undisputed. He also proposed that the Committee look at law of parliamentary privilege and the procedure to be followed in the case of a person requesting a member to repeat statements outside of the House.

2.5 There was some discussion on the approach to be followed, during which Dr. Gopeesingh suggested that the Committee should be guided by a Report of an earlier Committee of Privileges of the Senate on the matter concerning Senator Wade Mark and the National Lotteries Control Board (NLCB).

2.6 The Chairman expressed the opinion that, in considering the approach to be followed, it will be contrary to good procedure for the Committee to determine that the UDeCOTT was guilty of contempt of Parliament, without allowing that entity the opportunity to appear before the committee and give evidence in its defence.

2.7 Dr. Moonilal expressed his agreement with the opinion expressed by the Speaker indicating that an unsuitable precedent would be set should the Committee fail to summon the UDeCOTT.

2.8 A view was expressed that it will be premature to summon UDeCOTT to appear before the Committee before conducting the relevant research on the law and procedure related to the matter before the Committee.

2.9 The Chairman asked Members to consider what steps should follow in the event that the UDeCOTT apologizes for its actions.

RESEARCH REQUESTED

3.1 The Committee requested that the Secretariat conduct research on the nature of the allegations made, including:

- a. rulings on matters similar in nature from other jurisdictions (precedents);
- b. the consequences of such action;

- c. guidance as to who from the entity should appear on its behalf before the Committee.

3.2 The Committee further requested the Secretariat to circulate to Members:

- I. First Report of the Committee of Privileges of the Senate (2005-2006 Session) on the matter concerning the NLCB;
- II. Report of the Committee of Privileges of the Senate (1992-1993 Session) on the matter concerning Senator Surendranath Capildeo.

ADJOURNMENT

4.1 Reference was made to the fact that there was another matter referred to the Committee for its consideration and report involving Mrs. Persad-Bissessar. Mr. Imbert expressed the view that it would not be appropriate for Mrs. Persad-Bissessar to participate in those deliberations.

4.2 The Committee agreed to meet in two weeks to consider the research findings and, if possible, to commence its work on the matters referred to it.

4.3 There being no other business, the Chairman adjourned the meeting to Friday May 22, 2009 at 10:00 a.m.

4.4 The meeting was adjourned at 12: 15 p.m.

I certify that these Minutes are true and correct.

Barendra Sinanan
Chairman

Jacqui Sampson
Secretary

May 15, 2009

**MINUTES OF THE SECOND MEETING OF THE COMMITTEE OF PRIVILEGES
OF THE HOUSE OF REPRESENTATIVES, SECOND SESSION (2009)
HELD IN COMMITTEE ROOM NO. 3, PARLIAMENT, THE RED HOUSE, PORT OF SPAIN
ON FRIDAY MAY 22, 2009
(First Matter: Alleged contempt by the UDeCOTT)**

PRESENT

Mr. Barendra Sinanan	-	Chairman
Mr. Colm Imbert	-	Member
Ms. Pennelope Beckles	-	Member
Ms. Christine Kangaloo	-	Member
Mr. Stanford Callender	-	Member
Dr. Tim Gopeesingh	-	Member
Mrs. Kamla Persad-Bissessar	-	Member
Ms. Jacqui Sampson	-	Secretary
Mr. Ralph Deonarine	-	Assistant Secretary
Mr. Julien Ogilvie	-	Assistant Secretary

ABSENT

Dr. Roodal Moonilal	-	Member (Excused)
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COMMENCEMENT

1.1 The Chairman called the meeting to order at 10:20 a.m. and welcomed those present.

CONFIRMATION OF MINUTES

2.1 Mr. Callender moved that the Minutes of the First Meeting held on **May 08, 2009** be confirmed, subject to the following amendment:

“In paragraph 2.4 delete the words “Mr. Imbert contended that the Committee should not engage in detailed deliberation on the matter since the breach of privilege by the Urban

Development Corporation of Trinidad and Tobago Limited (UDeCOTT) was undisputed,” and substitute the following:

“Mr. Imbert stated that he read authorities on the issue which led him to believe that the actions by the UDeCOTT may have amounted to a breach of Parliamentary Privilege.”

2.2 Mr. Imbert seconded.

2.3 The Minutes were confirmed, subject to amendment.

MATTERS ARISING FROM THE MINUTES

Page 1 (Item 2.4) Practice and procedure in other jurisdictions

3.1 Mr. Imbert referred to page 655 of David Mc Gee’s *Parliamentary Practice in New Zealand (Third Edition)* and read an excerpt from the section entitled ‘*Punishing parliamentary contributions.*’ He indicated that this was the authority that led him to believe that the UDeCOTT may have committed the breach unwittingly.

3.2 Members conveyed their regret in not being able to join in the discussion on the authorities, since the research requested, which included precedents from other jurisdictions, was not made available to them in sufficient time to allow them to consider the material.

PRELIMINARY ISSUES

4.1 The Committee agreed that Dr. Gopeesingh should be replaced on the Committee during its deliberations on the matter involving the UDeCOTT, in the interest of natural justice.

4.2 The Committee further agreed that, for similar reasons, Mrs. Kamla Persad-Bissessar would be replaced on the Committee during its consideration of the matter in which she was directly involved.

4.3 Mrs. Persad-Bissessar undertook to inform the Chairman of the name of the person who would replace both Members in time for the next meeting of the Committee when it planned to commence its work.

4.4 In the interim, the Committee agreed that the Committee Secretary should write to the UDeCOTT:

- i) informing them that a matter was referred to the Committee concerning an advertisement published in a daily newspaper(advertisement to be identified);
- ii) requesting whether the UDeCOTT had authorised this publication;
- iii) drawing to their attention the law and learning on this matter; and
- iv) requesting an explanation of the actions of the entity.

4.5 There was a brief discussion on the nature of the allegation made against Mrs. Persad-Bissessar (Member for Siparia) by the Member for Lopinot/Bon Air West during which Mr. Imbert contended that, in his opinion, there were two separate privilege matters raised by the Member for Lopinot/Bon Air West and referred to the Committee, namely:

- i) The imputing of improper motives against the president; and
- ii) The deliberate misleading of the House.

4.6 The Committee requested that the Secretariat conduct research on the following:

- d. What are the circumstances under which a Member could be found to be guilty of the contempt of deliberately misleading the House;
- e. What are the norms of punishment (the consequences) for the contempt of deliberately misleading the House;
- f. Whether bringing the Office of President into disrepute by a Member while speaking in a debate in the House can amount to contempt of Parliament;
- g. Precedents in relation to (c) above;

- h. Whether the Committee could raise another matter against the a Member who is already the subject of a matter before the Committee, and if so, the procedure to be followed;
- i. Precedents on what impact (if any) does an apology for an alleged breach of Privilege have on further proceedings on the matter.

5.1 Mr. Imbert also requested to be advised on the meaning of 'Tacit acceptance' used in Appendix c of The Third Report of the Committee of Privileges (1976-1977) (UK)

5.2 Mrs. Persad-Bissessar requested advice on whether a Member of the House who is accused of committing a breach of privilege could observe the proceedings of the Committee (as opposed to participate).

OTHER BUSINESS/ISSUES

6.1 Mr. Imbert and Dr. Gopeesingh informed the Chairman that their Parliament email addresses were dysfunctional; Mr. Imbert's for quite some time now. The Chairman undertook to look into the matter with a view to getting it resolved.

6.2 The Member for Siparia inquired about the status of the matters which were raised but not concluded in the last session and was advised that those matters lapsed upon the prorogation of the session. The Chairman indicated that he would prefer that the Committee planned its work in such a way so as to ensure that it can complete all matters referred to it expeditiously.

ADJOURNMENT

7.1 There being no other business, the Chairman adjourned the meeting to Friday June 05, 2009 at 10:30 a.m.

7.2 The meeting was adjourned at 11: 30 a.m.

I certify that these Minutes are true and correct.

Barendra Sinanan
Chairman

Jacqui Sampson
Secretary

May 25, 2009

**MINUTES OF THE THIRD MEETING OF THE COMMITTEE OF PRIVILEGES
OF THE HOUSE OF REPRESENTATIVES, SECOND SESSION (2009)
HELD IN COMMITTEE ROOM NO. 3, PARLIAMENT, THE RED HOUSE, PORT OF SPAIN
ON FRIDAY JUNE 05, 2009
(Alleged contempt by the UDeCOTT & Alleged Deliberate Misleading of the House by the
Member for Siparia)**

PRESENT

Mr. Barendra Sinanan	-	Chairman
Mr. Colm Imbert	-	Member
Ms. Penelope Beckles	-	Member
Ms. Christine Kangaloo	-	Member
Mr. Stanford Callender	-	Member
Dr. Tim Gopeesingh	-	Member
Ms. Jacqui Sampson	-	Secretary
Ms. Lily Broomes	-	Assistant Secretary
Mr. Julien Ogilvie	-	Assistant Secretary

ABSENT

Dr. Roodal Moonilal	-	Member (Excused)
Mrs. Kamla Persad-Bissessar	-	Member (Excused)

COMMENCEMENT

- 1.1 The Chairman called the meeting to order at 10:50 a.m. and welcomed those present.

CONFIRMATION OF MINUTES (May 22, 2009)

- 2.1 Mr. Imbert moved that the Minutes of the Second Meeting held on May 22, 2009 be confirmed, subject to the correction of a typographical error in item 'e' of paragraph 4.6. Dr. Gopeesingh seconded.

- 2.2 The Minutes were confirmed.

MATTERS ARISING FROM THE MINUTES

3.1 Dr. Gopeesingh referred to **Item 4.1 and item 4.2 on page 2** which dealt with Members recusing themselves from proceedings of the Committee in which they had an interest and advised that the necessary replacement will be named shortly.

3.2 He also referred to item 5.2 on page 3 and requested guidance on the issue.

3.3 In response, the Committee confirmed that a Member of the Committee who has a direct interest in the matter before the Committee (the accused/complainant) could be present during the Committee's proceedings, but would not be allowed to participate.

3.4 Additionally, the Committee further agreed having considered proposals made by Mr. Imbert that:

- a Member of the House of Representatives who is not a Member of the Committee, including a member with a direct interest in the matter, could be present during the Committee's proceedings, but would not be allowed to participate;
- a Member of the House of Representatives who is the subject of a matter before the committee should be allowed to make a submission to the Committee, if he or she so desires.

3.5 Mr. Imbert referred to item 5.1 on page 3 and inquired about the research conducted by the Secretariat on the term '**Tacit Acceptance**'.

3.6 The Chairman caused to be circulated an email, from the Clerk of the Overseas Office of the British House of Commons, which explained that:

The term "tacit acceptance" implies that ***once a motion for adoption of the report is moved, it is understood that the House is in agreement on the matter without the motion being debated.***

CONSIDERATION OF THE MATTER INVOLVING THE UDeCOTT

[At this point, Dr. Gopeesingh, though present, did not participate in these deliberations]

4.1 The Chairman confirmed that the UDeCOTT had been written to by the Secretary, as agreed by the Committee at its last meeting. (copies of the letter sent dated May 28, 2009, were circulated)

4.2 The Chairman further informed Members that the UDeCOTT had responded to the Secretary's letter and caused to be circulated the response dated June 02, 2009, which was signed by Mr. Calder Hart, Executive Chairman, UDeCOTT.

4.3 Mr. Imbert noted that the UDeCOTT was not provided with the relevant authorities on parliamentary practice that may have guided them in their response and suggested that specific literature on the subject be forwarded to the entity.

4.4 The Committee directed the Secretary to forward to the UDeCOTT a copy of pages 655 and 656 of New Zealand's Parliamentary Practice.

4.5 A discussion on the response from Mr. Hart ensued during which the Committee noted that the UDeCOTT had provided an explanation for the publication. Special recognition was given to the fact that the UDeCOTT had offered an unqualified apology for its actions.

4.6 At the end of the discussion there was agreement that the UDeCOTT had published the advertisements, unwittingly. The Committee further agreed that having regard to the unqualified apology offered by the company, it would recommend to the House that this matter be closed.

4.7 The Secretary was directed to draft the Chairman's report to the House of Representatives for the early consideration of the Committee.

4.8 There was a brief discussion on circumstances which may amount to the unauthorized disclosure of Committee deliberations during which the Chairman referred Members to Standing Order 81 of the House of Representatives which prohibits the premature and unauthorized disclosure of the proceedings of the Committee.

4.9 Before turning the attention of the Committee to the second issue for its consideration, the Chairman informed Members that, by letter dated May 25, 2009, the Executive Chairman of the UDeCOTT had forwarded to him an unsolicited legal opinion written by Messrs. Geoffrey Robertson Q.C. and T.F Robertson S.C in relation to the instant matter and on the question of the powers and privileges of the House, generally. He sought and obtained the agreement of the Committee for its circulation.

4.10 The opinion was circulated by the Secretary.

4.11 After a brief discussion, the Committee requested the Secretary to submit advice on the question of the penal powers of the House of Representatives.

CONSIDERATION OF MATTER INVOLVING THE MEMBER FOR SIPARIA

[At this time Dr. Gopeesingh recommenced his participation in the Committee's deliberation]

5.1 At the commencement of the discussions, reference was made to the research/opinion prepared by the Committee Secretariat which clarified issues related to questions of privilege to be considered. The Committee noted that the question to be determined was whether the Member for Siparia deliberately misled the House during her speech in the House on April 03, 2009.

5.2 Mr. Imbert, while accepting the research, registered his concern that an additional breach of privilege may have emanated from statements made by Mrs. Persad-Bissessar. He inquired about the provisions available to Members of the House if they wish to raise a Point of Order in relation to a potential breach of privilege.

5.3 The Chairman indicated that in such scenarios it is the prerogative of the Speaker to rule accordingly.

5.4 During the discussions that ensued, the Committee considered the *Personal Explanation* made by the Member for Siparia on Monday May 04, 2009, in response to the accusation that she deliberately misled the House. It was noted that the Member proffered no apology to His Excellency in her explanation.

5.5 The Committee agreed that at an appropriate stage in its deliberations, Mrs. Persad-Bissessar should be given the opportunity to appear before the Committee to offer an explanation for her actions.

5.6 There was consensus on the need for the Committee to consider all relevant documents and material which may provide a clear background of the circumstances which surrounded the making of the statements by the Hon. Member for Siparia. Accordingly, the Secretary was instructed to provide Members, in time for the next meeting with the following:

- a). A letter written by Mrs. Persad-Bissessar to the President requesting the appointment of the Integrity Commission.

- b). A pre-action protocol letter from Mrs. Persad-Bissessar calling on the President to appoint a new Integrity Commission
- c). All relevant newspaper articles pertaining to the subject matter.

ADJOURNMENT

6.1 There being no other business, the Chairman adjourned the meeting to **Wednesday July 01, 2009 at 10:30 a.m.**

6.2 The meeting was adjourned at 12: 25 p.m.

I certify that these Minutes are true and correct.

Barendra Sinanan
Chairman

Jacqui Sampson
Secretary

June 09, 2009