

Ref: # -3 of 2013

Ruling On a Complaint of Violation of Privilege By Mr. Keith Scott, M.P.

Honourable Members, on the evening of Tuesday, April 2, 2013, it was brought to my attention by the Hon. Member Mr. Keith Scott, that there was a news story arising from his presentation on the 2013 budget, which story, was altered the content and context of what he had said earlier regarding the impacts of mining in the interior of Guyana. The Hon. Member expressed the opinion and belief that as a Member of the National Assembly, he was disrespected by the story's falsity, and this no doubt caused him to be seen in a negative light.

Following the intervention by the Hon. Member, I undertook to review his statements using the verbatim transcript generated by the Hansard Department as against what was reported by the Media entity - INews.

I have since been able to peruse the relevant sections of the verbatim transcript of the Hon. Keith Scott's presentation and am satisfied that what was stated by him is an extremely far cry from that which was stated in the news story carried in the electronic media on the evening of April 2, 2013. This matter, despite my pronouncements on the evening of April 2, 2013, was compounded by the publication of the same story in the Guyana Chronicle on Wednesday, April 3, 2013. This leaves me to believe that the two work in tandem.

For the avoidance of all doubt and speculation, I reproduce hereunder, the exact words spoken by the Hon. Member (as supplied by the Hansard Department), to be followed by the words of the news story.

Mr. Scott's Portion on Mining

"Mr. Speaker, mining is one of the traditional pillars of our economy. The Minister gushes that gold production has reached unprecedented levels. More jobs he claims will be created. What he has not told us is the real cost of this money to the society as a whole. Go to internet and Google "Major General Ret'd Joe Singh", the pictures you will see of our rivers will show the unbelievable discoloration and damage to our river banks as a result of dredging and other mineral extraction in the interior. A few days ago we saw the deadly effect of the outbreak of water borne diseases in Region 1 as residents of Port Kaituma struggled to contend with polluted water from the river. There is a quote, "only when the last tree has died, the last river has been poisoned, the last fish has been caught will we realize that we cannot eat money".

Tell us then Mr. Minister since gold production was the highest in history, even 20.8 percent higher than last year, how much will we set aside from this wealth to clean up our rivers? How do you intend to restore our river banks and how do you plan to enhance the capacity of the environmental protection agency and other environmental forces so they can adequately police mining operations ensuring that best international safety practices are maintained so that the residents can live in a clean and safe environment? Show us how some of the wealth extracted will be used to help the small man enjoy a better standard of living."

INews Story

"The opposition A Partnership For National Unity (APNU) Member of Parliament Keith Scott today launched an attack on miners and other operators in the mining sector, accusing them of destroying Guyana and the lives and dwelling of Guyanese.

During his presentation on Budget 2013 Debate, Scott claimed that miners continue to rape Guyana of its natural resources, while destroying waterways, fishes and trees.

He has also demanded firmer action by the authorities against miners. Scott also called for more resources for the EPA and other agencies to effectively carry out their mandate.

Meanwhile, the miner's association representatives have reportedly taken the APNU MP to task, demanding an apology. The association reportedly intends to write APNU about the "unfounded accusations".

It is pellucid that both the content and context of the Hon. Member's statements have been altered. There is no reference to the words "destroy" and "rape" that are used in parenthesis by the publishers. Further, the alteration is so vast that the explanation of a grammatical slip, or misinterpretation, will be too incredulous and unbelievable to be acceptable. There is no doubt in my mind that the Hon. Member's words were deliberately altered to create a negative impression of him. This, in my opinion, is offensive -both to him, and to this august House.

Freedom of Press - vs - Protection of Rights and Privileges of Members of Parliament

As Speaker, I recognize that the Press, as the proverbial "fourth estate" has a critical and irreplaceable role in guarding our democracy, and that in doing so, no fetters should be placed on its ability to discharge its responsibilities. I juxtapose this truism against the privileged rights and responsibilities of representative assemblies the world over. There is an obvious tension between the two – some may even say a "necessary tension;" with each acting as a countervailing force and check and balance on the other.

In its zeal to bring information to the public, particularly of persons in public office, the press' actions must still be circumscribed by laws, social norms and professional ethics. Likewise, in its quest to provide full and unadulterated representation to constituents, Members of Parliament must be aware that this privilege must however not be abused or taken for granted, and that they are, as elected officials, and representatives of the

people, “fair game” in the eyes of the press. I believe that Members of Parliament must not only be aware of the protections afforded them, but must be able to feel its protective cloak when needed.

Therefore, a balance has to be found between what is permissible in the context of free speech and the protection of the privileged rights of the National Assembly. Guyana is by no means singular and unique as it grapples with this perennial issue, which issue has become exacerbated in the digital and technological age.

Addressing Breaches of Privilege and Contempt

The Standing Orders of the National Assembly of Guyana are silent on matters of this nature. This however should not give rise to the mistaken belief that we are without remedies. We know wrong from right and where there is a wrong, we are compelled to act. There is a legal maxim that is worth repeating: “equity will not suffer a wrong to be without a remedy”.

The Standing Orders of the National Assembly of Guyana, in particular Standing Order 113 – ***Rules in cases not Provided for by Standing Orders***, allows our National Assembly, in cases where ours are silent, to have resort to the usage and practice of the Commons Assembly of Parliament of Great Britain and Northern Ireland and to adopt and follow these as far as practicable. It is in the usage and practice of the United Kingdom that we find a veritable treasure trove of useful information on this matter.

In Erskine May Parliamentary Practice 24th Edition at page 139 under the Heading: **“Constructive Contempts” – publication of False or “Perverted Reports of Debates”** is written the following:

“The Lords have a Standing Order (No. 16) which declares that the printing or publishing of anything relating to the proceedings of the House is subject to the privilege of the House and in the past action was taken against those whose publication of debates was in some way offensive to the House on particular grounds”.

A House of Parliament, and ours is no exception, has considerable powers to protect itself against any action that interferes or threatens to interfere with, obstruct or impedes the House in the discharge of its duty. What constitutes the House’s duty and how there can be interference with it, has been given liberal interpretation. In India, and Canada much judicial time has been spent on defining these in the cases of **M.S.M. Sharma v Sukrishna Sinha**, AIR (1959) SC 359, **Re Presidential Reference under Article 143 of the Constitution**, AIR (1965) SC 750, and more recently, in **Raja Ram Pal v Honourable Speaker, Lok Sabha & Others** (2007) 3 SCC 184.¹ All of these cases recognized the right of Parliament to control its proceedings, which includes the right to exclude strangers, or circumscribe their rights of attendance. Any person, not a Member of Parliament, or employee of the Parliament Office, is considered a stranger; and that includes members of the media.

Erskine May 44th Ed. At page 128 states the general position in this way:

“General speaking, any act or omission which obstruct or impedes either House of Parliament in the performance of his 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, may be treated as a contempt even though there is no precedent of the offence.”

And at page 138:

¹ See also: **New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)** 1993 1 SCR 319

“Indignities offered to the House by words spoken or writings published reflecting on its character or proceedings have been punished y both the Lords and the Commons upon the principle that such acts of abuse tend to obstruct the Houses in the performance of their functions by diminishing the respect due to them”.

In the circumstances, I am of the view that the Hon. Member, Mr. Keith Scott, has been disrespected and his privileges violated by the publication of this grossly false story. When any Member is disrespected, then the whole House is, in my considered opinion, disrespected.

The sanctions of the National Assembly in this instance are many. However, in this modern era where information is as important as the air we breathe, the purveyors of it should be free and unrestrained as they go about their duties. Further, I believe that the coercive powers should be used sparingly and only in cases of contumacious contempt of Parliament so as not to interfere with the right of the press to report freely.

Against this background, I make the following rulings:

Rulings

1. I find that on the face of it that the publishers of INews and the Guyana Chronicle have violated the privileged rights of the Honourable Member, Mr. Keith Scott, M.P.
2. A full and unqualified apology, and retraction of the story, must be made at the same level and manner of publicity as was given to the false story. This must be done by Friday, April 5, 2013.
3. Should the publishers fail to abide by this Ruling the House will be moved at the earliest opportunity to consider allegations of contempt against the Publishers, and to recommend an appropriate sanction.

Hon. Raphael G.C.Trotman, M.P.
Speaker of the National Assembly

Dated this 4th day of April, 2013