

REPORT TO PARLIAMENT

by

**THE INTEGRITY
COMMISSION**

on its activities for the year

1988

*(Pursuant to Section 10 of the Integrity in
Public Life Act, 1987)*

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On the 11th May, 1987 assent was given to the Integrity in Public Life Act No. 8 of 1987, thus carrying into effect Section 138 of the Constitution which provides for the establishment of an Integrity Commission charged with the duty of :-

- (a) receiving, from time to time, declarations in writing of the assets, liabilities and income of members of the House of Representatives, Ministers of Government, Parliamentary Secretaries, Permanent Secretaries and Chief Technical Officers;
- (b) the supervision of all matters connected therewith as may be prescribed.

By instruments under the hand of the President dated the 31st December, 1987, the following persons were appointed to form an Integrity Commission for a period of three years with effect from 1st January, 1988, pursuant to Section 4 of the Integrity in Public Life Act, 1987:

Mr. Justice George Collymore	-	Chairman
Dr. George Sammy	-	Deputy Chairman
Dr. J. O'Neil Lewis	-	Member
Mr. John Martin	-	Member
Mr. John Ottley	-	Member

The members took the oath of office before the President on the 7th January, 1988, and thereafter commenced sitting in the Hall of Justice at Chambers made available through the kind courtesy of the Chief Justice. The accommodation provided consists of three judges chambers on the second floor, together with the ante-chamber thereto, comprising a self-contained block separate and distinct from the adjoining rooms. Also provided is a Conference Room some short distance away where the Commission holds weekly sittings. For the year 1988 the Commission held 50 sittings.

The Commission carried out its sittings for 8 weeks before there was seconded to it on 1st March, 1988, a Secretary in the person of Miss Dorothy Blackman, who held the post of Permanent Secretary in the Office of the Prime Minister. Stenographic assistance was provided from the Prime Minister's Office by way of an Executive Secretary on a temporary assignment in the persons of:

Mrs. Rita Caines	- 4 months
Miss Agatha Questel	- 5 days
Miss Janet Soanes	- 3 months
Mrs. Betty Lee	the present incumbent as from October 10th, 1988

Other assistance has come from Miss Carol Wolfe who came twice a week to assist with specific tasks. Accounting assistance was provided on two afternoons weekly from the President's Office as convenient either by Mr. Gary Suite or Miss Charmaine Harris.

Provision has however been made in the Estimates for the appointment of permanent staff as shown in an Annex hereto.

Through the kind co-operation of the Public Service Commission our Commission interviewed candidates for the posts of Executive Secretary on 11th October, 1988 and Clerical Officer Grade III on 29th November, 1988 and made recommendations thereto, but so far, no appointments have been made.*

SECURITY ARRANGEMENTS

Early in our operations, we invited the Commissioner of Police to advise us as to the appropriate security arrangements to be implemented relative to the sensitive and confidential nature of the information being dealt with, and we have been receiving such advice on a continuing basis from Officers of his department. Consequent upon such advice, we have acquired a Chubb fireproof safe, with a combination lock and a time-lock as an added safeguard. The time-lock serves to prevent the opening of the safe before a set time even if the combination to the safe were obtained. In this safe are kept the declarations, as required by law, of the persons in public life.

ADMINISTRATIVE ARRANGEMENTS

With the appointment of a Secretary to the Commission on secondment, the burden of the administrative arrangements has fallen to her. At present, the Commission operates merely on a skeleton staff, with the result that a great many mechanical details fall to be seen to by the Secretary herself without any clerical assistance.*

SECRECY OF INFORMATION

The Act requires that -

"every person performing any function in the Service or as an employee of the Commission shall treat all declarations and records and information relating to such declarations, as secret and confidential...."

and has imposed a penalty of \$20,000 and two (2) years imprisonment for any breach of its provisions.

We wish to draw attention to the further provision as to secrecy under Section 11 of the Civil Service Act, Chapter 23:01 which applies to civil servants who hold certain specified offices among them being that of -

"(d) a member of the staff of a Service Commission established by the Constitution"

who are required to take an oath of Office and Secrecy as set out at the Third Schedule to that Act.

It seems to us a matter of some doubt as to whether the Integrity Commission can properly be categorized as a Service Commission established by the Constitution, but we nevertheless are of the opinion that in addition to the sanctions imposed by Section 12 of the Act, every civil servant entering into the service of this Commission should likewise subscribe to the oath under the Third Schedule to the Civil Service Act.

The Constitution already empowers Parliament to make provision for -

(d) the maintenance of secrecy in respect of all information received by the Commission...
(Section 13(d))

so that our recommendation is that, for the removal of doubt, it should be made clear that for the purpose of Section 11(2) of the Civil Service Act, a member of the staff of a service commission includes a member of the staff of the Integrity Commission.

OFFICE ACCOMMODATION

The three judges chambers are occupied by the Chairman, the Deputy Chairman and the Secretary. The office accommodation available for clerical staff consists of the ante-room to these three chambers, which was designed to accommodate merely the three secretaries to the judges housed in that block. It seems apparent therefore, that when the Commission becomes fully staffed, there would be a severe shortage of office space.

There is additionally the Conference Room some short distance away where the Commission meets, but having regard to the confidentiality of our operations, it would not be possible to utilize any space there for clerical staff.

Cogent reasons therefore exist to find other accommodation for this Commission.

A reason other than the constraints of space is that the Commission has been allowed purely temporary accommodation that is subject to the needs of the Judiciary for its own purposes. It is an understanding of our occupancy therefore, that our stay will be only until other suitable arrangements can be made for a permanent home.

The Commission has already begun discussions with the Director of the Property Management Unit in the Office of the Prime Minister in the hope of being able to make recommendation for the establishment of a permanent accommodation.

DEATH OF DR. SAMMY

In July the Commission suffered the loss of its Deputy Chairman, Dr. George Sammy after a brief illness. The Commission wishes to go on record as recognizing the sterling contribution made by Dr. Sammy to our deliberations and our great sorrow at his passing.

Dr. J. O'Neil Lewis acted as Deputy Chairman during the absence of Dr. Sammy and was confirmed in that post after Dr. Sammy's death. A new member was then appointed to the Commission in the person of Mr. Brian des Vignes, an Attorney-at-law in the firm of J.D. Sellier & Company.

COMPUTERIZATION OF OPERATIONS

The Commission has taken the view that it should establish the most modern and efficient procedures from the outset, and has therefore provided for the computerization of its operations. In this regard, provision has been made for the acquisition of a micro computer and the department of Organization and Management has been giving technical assistance in this regard.

It is proposed to have stored in the computer all the relevant details of the declarations of persons in public life for ease of reference and to have this information which is recorded on discs stored for security purposes in a fire proof safe.

FORM OF DECLARATION

One of the first tasks of the Commission on assuming office has been to design an appropriate form of Declaration to assist declarants in presenting their information in an orderly and logical manner. We have taken cognizance of the need to ensure that any such form must conform to the Second Schedule to the Act and have so designed the form that it adheres strictly to the contents of the Second Schedule, while presenting a format that makes for a more satisfactory accounting presentation.

While we feel enabled to carry out such a re-arrangement of the Schedule under implied powers declared at Section 45 of the Interpretation Act Chap. 3:01, yet we consider that a wider power should be given to the Commission to amend the specified form by regulation so as more fully to comply with the purposes of the Act. Instances of such a need are illustrated by the following:

GIFTS

The Second Schedule to the Act provides that gifts in kind or cash must be declared, but specifies no limits as to the nature or value of the gifts which should be disclosed. It seems to us that some gifts may be categorized as being purely minimal and to have no real significance so far as concerns the purpose and intendment of the Act, and could safely be ignored, an example being presents traditionally exchanged at Christmas time or birthdays. We note in this connection that in the Members' Conflict of Interest Act of Toronto, Canada, only gifts over the value of \$200 need be disclosed.

It seems to us that our Act is not concerned with the trifling gifts that could carry with it no improper reflection on either the donor or the donee but rather with the more expensive item that would call for some public scrutiny.

HOUSEHOLD ITEMS

Some persons in their scrupulous care to divulge all their assets, listed in great detail articles of furniture and other items of ordinary household use. The majority of declarants, however, did not do so.

We are of the opinion that the majority interpretation of the Act is the correct one. It seems to us to be wholly unnecessary and impractical for a person to record faithfully every single item of his worldly goods held during the past year.

The item categorized "Other Assets" in our view is aimed at the disclosure of those things that are acquired which are of such significance and value that would call for some public scrutiny. As examples of this we would give the following:

- Rare collections of Art, Literature, Music and the like;
- Expensive equipment of any kind (other than normal household equipment);
- Expensive jewellery;

The list is not complete.

It is our view that the Commission should be empowered to make regulations subject always to parliamentary ratification.

In this connection we wish to refer to the Parliament (Integrity of Members) Act 1973 of Jamaica to which Act, our Act No. 8 of 1987 has many points of resemblance, and to point to the regulation-making power that was given to that Commission as follows:-

- "The Commission may make regulations -
- (a) prescribing the manner in which enquiries may be carried out and any matters incidental to or consequential on such enquiries;

- (b) amending the forms specified in the Second Schedule;
- (c) prescribing the period within which any information required by the Commission should be furnished; and
- (d) prescribing any matter or thing, whether similar to the above or not, in respect of which it may be expedient to make regulations for the purpose of carrying this Act into effect". (s. 14).

We consider that a regulation-making power of similar effect would allow for adequate power to make any adjustments that would better carry out the purposes of the Act.

PROJECTIONS FOR INTEGRITY LEGISLATION

The Commission has thought it useful to carry out a survey of integrity legislation in some other countries, and our starting point was the de la Bastide report which emanated from a Cabinet appointed committee which visited the United Kingdom, the United States and Canada during 1979. We have also seen legislation on this subject from Hong Kong, India, Jamaica (already referred to) and from Ontario and Prince Edward Island in Canada, as well as a report from a Governor-appointed Commission from the State of New York and parliamentary documents from Britain.

We undertook this survey because from our reading of the parliamentary debate on our legislation and from sentiments expressed elsewhere, we sensed that our present Act was intended as a first step only on the road to more comprehensive integrity legislation, hence our view that a report of activities abroad in this field might point the way to further steps along that road.

BRITAIN

Our information from the United Kingdom authorities is that -

"there is no organisation in the United Kingdom which carries out a function similar to our Integrity Commission".

However, there has come to hand guidelines with respect to private interests for ministers and civil servants; and we wish to cite in this connection from a "Report from the Select Committee on Members' Interests (Declaration) Session 1974-75" as follows:-

"A Member of Parliament must expect to be subjected to thorough public scrutiny in the performance of his public duties. He is also, however, a private individual and is entitled to a proper degree of privacy. His wife and children are equally entitled to such privacy. Accordingly, your Committee reject the concept that the register should, in effect, consist of a Member's income tax returns and consider it unnecessary to require the amount of any remuneration or benefits received to be disclosed. Your Committee also recognise, as did the previous Committee, that the institution of a register can give no guarantee against evasion. In the end, responsibility must rest on the Member himself to disclose those interests that might affect his Parliamentary actions. He is, however, at all times answerable to the vigilance of his fellow Members and the public and the register will serve him and them in the discharge of his responsibility.

Your Committee recommend that the form for the register of interests to be sent to Members should contain the following definition:-

"The purpose of this Register is to provide information of any pecuniary interest or other material benefit which a Member of Parliament may receive which might be thought to affect his actions, speeches, or vote in Parliament".

Scope of the register

Your Committee turn now to the classes of pecuniary interest or other benefit which are to be disclosed in the register. They wish to emphasise that the definitions they propose should be seen as broad guidelines within which Members should proceed with good sense and responsibility. In all cases of doubt the advice of the Registrar would be available. For the purpose of the register interests should be declared which date from the first day of the present Parliament.

For similar reasons, your Committee do not recommend that there should be registration in every case where the Member holds shares of greater than a stated value. The register is not designed to indicate a Member's wealth but only the sources of those interests which might influence his Parliamentary conduct.

So far as close relatives are concerned. Your Committee have already considered the question of the spouses and infant children of Members in relation to the registration of shareholdings. They have recommended that where a Member has knowledge about shareholdings of his spouse or infant children in a company where he himself has a holding, he should register them as his own if they come within the proposed definition of a registrable interest. The provision, however, is exceptional. It only concerns the Member's own relationship to the company, and he will not be required to register his relatives' interests as such. Your Committee would regard a disclosure of the interests of spouse and children as an unnecessary invasion of privacy for which there is no justification at present.

It would in any case require legislation. They recommend therefore, that no action should be taken to extend the register to relatives of Members. They do, however, point out that it would, in their view, be quite contrary to the spirit of The Resolution of 22nd May for Members deliberately to seek to avoid the requirement to register a particular pecuniary interest in transferring such interest to their spouses or other close relatives. It will also, of course, be perfectly possible for a Member, if he or she thought it right and relevant to do so, to disclose any particular interest held by his wife or her husband or children."

The British way of doing things of this nature therefore, has been to spell out the principles of conduct born out of their national experience for the guidance of those concerned, rather than to erect institutions to safeguard them. These guidelines then become conventions which have the force of law, and their traditions are sufficient warrant for their enforcement. The classical and well-known illustration of this, of course, is the fact that the British experience, which has spawned written constitutions all over the Commonwealth, has not given rise to any written constitution in Britain itself.

The principles as to integrity in public affairs are already known to us, who, in many ways, because of our history have become heirs to the British traditions, and indeed the Codes of Ethics put forward by our Parliament, reflect some of those principles.

However, we wish to bring to the notice of Parliament the experience of other countries on this subject, and in particular that of the province of Ontario in Canada, which has now enacted legislation on integrity.

CANADA

The Ontario Act, entitled "An Act Respecting Conflicts of Interests of Members of the Assembly and the Executive Council", is as its name indicates, concerned only with parliamentarians. It resembles our Act in that there is established an Authority (in the person of a sole Commissioner) charged with overseeing the proper functioning of the Act. Like ours, the persons concerned must file annually with the Commissioner a statement of their assets, liabilities and financial interests. Included in their declarations, however, (unlike ours) are the interests of the members' spouses, children and private companies controlled by them.

There are certain unique features of this legislation, however, which are worthy of notice, viz:

Meeting with the Commissioners

"After filing a disclosure statement, the member and the member's spouse if the spouse is available, shall meet with the Commissioner to ensure that adequate disclosure has been made and to obtain advice on the member's obligations under this Act." (S.12/3)

This should be compared with our S. 14 which says:

"A declarant may be required by the Commission to furnish such further particulars relating to his financial affairs as may be considered necessary for the purpose of S. 8(b)".

Our Act does not however, require any person to meet with the Commissioner for the purpose of furnishing any further particulars.

In those instances where in an examination of declarations, we have felt it necessary to require such further particulars, we have invited the persons concerned to meet with the Commission at our office for this purpose, and the response to our invitations has been satisfactory.

We wish to emphasize, however, that response to our 'invitation' should in reality be an obligation under the Act, since it may be the only appropriate way in which the Commission can properly fulfil its duty of investigation as required by the Act.

We do not, however, posit the more stringent requirement of the Ontario Act of meeting with every person concerned for the purpose of ensuring that there has been adequate disclosure, since our experience of the first year has shown this to be not necessary in a great many cases.

We do however consider that our Act should state specifically that there is an obligation on a member to present himself at the Office of the Commission at our request to explain to our satisfaction any matter which requires further particulars.

A feature of the Ontario legislation which we consider to be of great significance is the Public Disclosure Statement. This is declared to be as follows:-

"After meeting with the member, and with the member's spouse if the spouse is available, the Commissioner shall prepare a public disclosure statement containing all relevant information provided by the member, and by the member's spouse if the spouse met with the Commissioner, in respect of the member, the spouse and the minor children..." (s. 13(1)).

There is then excepted a number of financial interests which may not be declared. In summary, the thrust of this provision is to identify those areas of financial activity which conceivably could give rise to a conflict of interest in the discharge by the member of his official duties rather than to disclose the extent of such financial interests. Thereafter the law requires that -

"The Commissioner shall, as soon as is practicable, file the public disclosure statement with the Clerk of the Legislative Assembly who shall make it available for examination by the public." (s. 13(6)).

The similarity to the Register of Pecuniary Interest already mentioned in the document entitled the Select Committee on Members' Interests, mentioned above, should be noticed.

We wish to draw to the attention of Parliament, however, the less stringent provisions in this regard, emanating from the Prince Edward Island legislation, where the onus of disclosing any matter giving rise to a conflict of interest is cast upon the member himself, and thereafter -

"The Clerk shall record all information filed with him, in a central record kept for that purpose, and shall make the central record available for inspection by any person without charge during normal business hours." (s.9)).

We note in this regard that Parliament has already established its own Guidelines on this topic to the following effect:

"In any debate or proceedings of the House or its Committees, or in any transactions, or communications which a Member may have with other Members or with Ministers or servants of the State, he shall disclose any relevant pecuniary interest or benefit of whatever nature, whether direct or indirect, that he may have had, may have or may be expecting to have. The form of disclosure shall be made by the Parliamentarian as the circumstances dictate, so however that at any future date a written record of the disclosure, its date and to whom it was made can be undisputably produced and verified.

A declaration of interest shall be made by a Parliamentarian at the earliest opportunity when speaking in debate or taking part in committee proceedings. Such declaration should be automatically recorded as part of the official record and indexed in Hansard for convenience of reference."

In the case of Ministers and Parliamentary Secretaries we have observed the following Guidelines:-

"The returns of Ministers' disclosures of interests shall be made to the Prime Minister and shall be kept in a Register of Interests, on a confidential basis, by the Secretary to Cabinet.

Ministers shall disclose to the Prime Minister for the Register of Interests the following additional information:

- (a) the beneficial interest of the Minister, or a member of his immediate family, under any trust, and in any nominee company, with a statement of the nature of operations of the trust or company;

- (b) any trust of which the Minister is a trustee, with a statement of the beneficiaries and the nature of the operations of the trust;
- (c) partnership and joint venture interests with a statement of the nature of their operations;
- (d) liabilities;
- (e) shareholdings, under procedures which will disclose the ultimate interest in circumstances where private companies are used as a screen to mask holdings directly or indirectly in other companies;
- (f) land and property owned by the Minister".

The scope of our legislation does not, however, embrace any question of a Conflict of Interest. It is our respectful recommendation however, that there should be such legislation. This is the principal thrust of the Ontario Act and sections 2, 3, and 4 of that Act are reproduced as follows:-

"For the purpose of this Act, a member has a conflict of interest when the member makes a decision or participates in making a decision in the execution of his or her office and at the same time knows that in the making of the decision there is the opportunity to further his or her private interest.

A member shall not use information that is gained in the execution of his or her office and is not available to the general public to further or seek to further the member's private interest.

A member shall not use his or her office to seek to influence a decision made by another person to further the member's private interest".

Carrying on Business

Section 8 of the Act sets out the following:-

"A member of the Executive Council shall not:

- (a) engage in employment or in the practice of a profession;

- (b) carry on a business; or
- (c) hold an office or directorship other than in a social club, religious organization or political party,

except as required or permitted by the responsibilities of being a member of the Executive Council".

Procedure on Conflict of Interest

A member who has reasonable grounds to believe that he or she has a conflict of interest in a matter that is before the Assembly or the Executive Council, or a committee of either of them, shall, if present at a meeting considering the matter,

- (a) disclose the general nature of the conflict of interest; and
- (b) withdraw from the meeting without voting or participating in the consideration of the matter.

Of particular significance are the powers given to the Commissioner in the carrying out of the purposes of the Act, as follows:-

"A member may, by application in writing, request that the Commissioner give an opinion and recommendations on any matter respecting the obligations of the member under this Act.

The Commissioner may make such inquiries as the Commissioner considers appropriate and provide the member with a written opinion and recommendations.

The opinion and recommendations of the Commissioner are confidential but may be released by the member or with the consent of the member in writing.

15. (1) A member who has reasonable and probable grounds to believe that another member is in contravention of this Act may, by application in writing setting out the grounds for the belief and the nature of the contravention alleged, request that the Commissioner give an opinion respecting the compliance of the other member with the provisions of this Act.

15. (2) The Legislative Assembly may, by resolution, request that the Commissioner give an opinion on any matter respecting the compliance of a member with the provisions of this Act.

Upon receiving a request under section 15, and on giving the member concerned reasonable notice, the Commissioner may conduct an inquiry.

Where the request for an opinion is made under subsection 15 (1) or (2), the Commissioner may elect to exercise the powers of a commission under Parts I and II of the Public Inquiries Act, in which case those parts apply to the inquiry as if it were an inquiry under that Act.

Where the request for an opinion is made under subsection 15 (1) or (2), the Commissioner shall report his or her opinion to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next session".

The penalties that may be imposed under the Act should be noted:

"Where the Commissioner conducts an inquiry under Parts I and II of the Public Inquiries Act for the purposes of subsection 15 (1) or (2) and finds that the member has contravened section 3,6, 7, 8 or 9, or has refused to file a disclosure statement within the time provided by section 12, the Commissioner may recommend in the report that is laid before the Assembly,

- (a) that the member be reprimanded;
- (b) that the member's seat be declared vacant until an election is held in the member's electoral district".

Thereafter, the Legislative Assembly -

"...may order the imposition of the recommendation of the Commissioner under subsection (1) or may reject the recommendation, and sections 45 and 48 of the Legislative Assembly Act apply in the same manner

as to a contempt of the Assembly, except the power to further inquire into the contravention or to impose a punishment other than the one recommended".

These are wide-ranging powers and any power of our Parliament to declare the seat of a member to be vacant on considerations as set out in this Act, would require amendment to our Constitution. A very major and fundamental issue that would therefore arise for the consideration of Parliament is whether in the nation's quest for a higher standard of integrity in public affairs it would wish to travel along the trail blazed by Ontario and some other Canadian provinces in the establishment of procedures laid down by law for the monitoring of the behaviour of its persons in public life along such lines.

We, of this Commission respectfully put forward our view that this seems to be the logical development of this sphere of activity. We note, in this regard, that our Caribbean neighbour Jamaica is reported to have now come round to the same point of view. A report from 'JAMPRESS' on proposed guidelines established by a committee appointed by Prime Minister Seaga (dated July 13, 1988) states:

"Provisions should be made in law to enable the Commission to receive complaints of infringements, to investigate complaints of substance and to report the results of their investigations to Parliament".

It seems to us that if our Parliament now wishes to travel along that narrow road to integrity, then the benefit of having a completely impartial tribunal far removed from the scene of political activity such as an Integrity Commission, would be a great advantage and if properly administered would inspire greater confidence in the populace.

Such a provision would, however, involve a greater expansion of the scope of the present Commission, and indeed, would call for consequential amendments to the Constitution.

We should state that we have already made recommendations along these lines to the Constitution Commission.

We wish now to examine in some detail the operation and scope of our Act.

PERSONS IN PUBLIC LIFE

The persons mentioned in the First Schedule of the Act as Persons in Public Life are the same as those enumerated at s. 138 (1) of the Constitution. Our record for the year of review 1987 lists the number of such persons as follows:-

Members of the House of Representatives	- 16
Ministers of Government	- 20
Parliamentary Secretaries	- 4
Permanent Secretaries	- 38
Chief Technical Officers	- 3

A question was raised early in the life of the Commission as to whether we should include in the category of Chief Technical Officers all those persons who 'de facto' carry out the function of tendering advice of a technical nature to a Minister of Government; and the department of Organization and Management supplied us with a list enumerating 178 such posts within the Public Service. We answered that question by interpreting the law strictly in accordance with the ordinary meaning of the words used so as to include in the category of Chief Technical Officer only those posts specifically so designated. It was felt that any enlargement of that category of office fell properly within the purview of Parliament rather than within the power of the Commission.

FINANCIAL DISCLOSURE

It was found that there was in general a faithful adherence by all concerned to their obligations under the Act. In a number of instances we raised queries about certain matters, but these related in all cases merely to details of accounting procedure.

Bearing in mind the injunction at s. 10(1) that

"...the report shall not disclose the particulars of any declaration filed ..."

we make some general comments with respect to the declarations made.

Declarations as to Real Estate

As the Act requires, the thrust of the Form of Declaration is not so much to procure a precise statement of the finances of the declarant, as to obtain a precise disclosure of all matters of Income, Assets and Liabilities. The distinction that is drawn may be exemplified in the case of real estate, by the requirement of a statement of the Purchase Consideration of such property in addition to the declarant's estimate of the current market value of that asset. The reasoning behind that, is that from an accounting point of view, the purchase consideration of an item of real estate is necessarily a fixed amount, whereas the current value is a fluctuating figure, dependent upon a number of variables. In this way the asset may be identified from year to year and the fluctuations on its value can be monitored. We have not considered it necessary therefore, to require any exact valuation of the current market value of such property.

In the case of property acquired by inheritance, there being no purchase consideration, a nil value was recorded in that regard, and only the current value of the asset was noted.

Where there have been accretions to the value of real estate through additions and improvements we consider that the cost so incurred should properly be added to the purchase consideration.

Declaration as to Foreign Property

In the case of those declarations which included foreign as well as local income, while we raised no query as to the notional conversion of income into TT dollars at the rate of exchange current at the appropriate point in time, yet logically it seemed that the separate identification of the different currencies without such conversion would be sufficient for our purposes.

Conflict of Interest Disclosures

It is felt that where any declaration discloses matter upon which a conflict of interest can conceivably arise between the member's personal interest and his public duty, the Commission should be empowered to report such a matter for inclusion in a Public Disclosure Statement along the lines mentioned in the Canadian legislation and in the practice of the British parliament.

Blind Trusts

The Commission notes the provisions of S.21 of the Act for the creation of a Blind Trust, whereby a person entering public life may divest himself of the responsibility for the management and control of any enterprise in which he was concerned, and vest it in trustees, who would be required to manage the enterprise without recourse to the beneficiary under the trust.

We have had only one instance of a declarant who availed himself of this procedure and in our view the better practice should be for persons to avail themselves of this facility where this can conveniently be done, rather than to maintain control of an enterprise where conceivably there could arise conflict of interests.

AN EVALUATION OF THE FUNCTION OF THE COMMISSION

The Commission perceives its role to be to safeguard the accurate recording of the declarations of the persons within its purview. In the discharge of that function, Parliament has vested in the Commission certain powers to ensure compliance with the provisions of the Act. These powers should be noted briefly.

Failure to file declaration

On a failure by a person to file a declaration without reasonable cause or to furnish particulars requested by the Commission, that fact may be published by the Commission in the Gazette.

For the record, there has been no instance of any such failure during the past year.

The question as to what constitutes 'reasonable cause' it may be noted, has been left to the discretion of the Commission and we have experienced no problems in its exercise. Whenever extensions of time were requested or whenever we have requested information, compliance has been good.

However, this is an area in which we consider that in the light of experience as the work of the Commission develops, it might be expedient for regulations to be made for the guidance of all.

Power to hold a Formal Enquiry

This power may be invoked -

"Where the Commission considers it necessary or expedient to enquire into the accuracy or fullness of a declaration filed ... S. 23(15)

in which event the Commission should advise the President to establish a tribunal consisting of one or more members of the Commission (s. 23).

Such a tribunal

"...shall have and exercise the powers of a Commission of Enquiry, under the Commissions of Enquiry Act..." (s. 24)

We should note once more that no occasion has arisen during the past year for the exercise of these powers. It might be appropriate, nonetheless, for us to make some observations upon the manner in which these powers may be exercised.

Firstly, it seems the clear intention of Parliament that the exercise of the drastic power of an examination before a tribunal is a last resort, after all other avenues of enquiry have been exhausted.

An obvious example for the exercise of this power that comes to mind is where the Commission has reason to believe from information received from a source other than the declarant, that income and/or assets have been received by the declarant in addition to what appears on the declaration.

The difficulties that can be foreseen in carrying out such an enquiry should now be examined

- The Commission has no staff for carrying out of any investigations.

Traditionally in our country, all investigations involving criminal infractions fall exclusively under the authority of the Commissioner of Police. In carrying out his functions he is subject to the authority of the Director of Public Prosecutions who is empowered to -

- (a) Institute and undertake criminal prosecutions...
- (b) take over and continue ... criminal prosecutions ...

(c) discontinue ... criminal prosecutions ...

(S.90 of the Constitution)

The Director of Public Prosecutions himself depends, however, upon the police for the investigation of offences; though, of course he may play a key supervisory role in that investigation.

There is no obligation on the police under the Act to bring to the notice of the Commission any fact which would go to establish that breach of some provision of the Act has been committed.

The Commission is of the view that it would be in the interest of all parties if some mechanism were put in place whereby any such information that may be brought to its notice may be properly investigated before any enquiry by a Tribunal be embarked upon.

Our recommendation in this regard, is that the Commission be empowered, in its discretion, to refer such information to the Director of Public Prosecutions for his investigation, this investigation being carried out by the police department under his direction and supervision.

On the holding of an enquiry, before the Tribunal, therefore, the Director of Public Prosecutions should present to the Commission the full results of his investigation, and appear before the Tribunal to assist in the presentation of the evidence.

Under the provisions of S. 23(5) the Commission is enjoined to furnish the Director of Public Prosecutions with information of the commission of any breach of some provision of the Act, after the holding of an enquiry. In our recommendation, the Director of Public Prosecutions would be better informed of any such breach if his investigation were to take place at the early stage of the investigation of the allegation followed by his participation before the Tribunal.

SUMMARY

Compliance with the Act

We wish to go on record as saying that compliance with the provisions of the Act has been exemplary by all concerned.

Requirements of the Commission

It is hoped that in the not too distant future the Commission will be provided with -

- (a) adequate premises in keeping with the importance of its operations; and
- (b) its complement of staff.

Power to make Regulations

The Commission should be empowered to make regulations for the better carrying into effect of the provisions of the Act, such regulations being made subject to parliamentary approval.

Projections for Integrity Legislation

- (1) We recommend that the following topics be the subject of integrity legislation -
 - (a) Conflict of Interest.
 - (b) Insider information - the use of information gained in the execution of office to further private interest.
 - (c) Influence - the use of office to influence a decision.
 - (d) The acceptance of Gifts.
 - (e) Carrying on of business.
- (2) There should be required a Public Disclosure statement to be compiled either from material supplied by the member to parliament or from material presented to parliament by the Commission that was drawn from the member's declaration.

Head 37—Integrity Commission—Continued
III—Details of Establishment

Establishment		Item No.		Range No.	Explanations
1988	1989				
			TRINIDAD		
		(1)	Chairman		
		(2)	Deputy Chairman		
		(3)	Members		
-	1	(4)	Secretary to the Integrity Commission	69	(4)—New post created with effect from 1st June, 1988
-	1	(5)	Administrative Officer IV	54D	(5)—Post to be deployed from within the Public Service
-	1	(6)	Executive Secretary	35F	(6)—New post created with effect from 1st June, 1988
-	1	(7)	Clerk III	24E	(7)—Post transferred from Ministry of Education
-	1	(8)	Clerk II	20C	(8)—do.
-	1	(9)	Clerk I	14	(9)—Post transferred from Ministry of Works and Infrastructure
-	1	(10)	Clerk Stenographer II	20	(10)—Post transferred from Ministry of Works and Infrastructure
-	1	(11)	Clerk Typist	13	(11)—Post transferred from Ministry of Education
-	1	(12)	Orderly	17/20C	(12)—Reassignment to Range 20C with effect from 1st January, 1977—Range 17 for 5 years and Range 20C after 5 years
-	1	(13)	Messenger I	9	(13)—Post transferred from Ministry of Works and Infrastructure
-	1	(14)	Maid I	4	(14)—Post of Cleaner I transferred from Personnel Department and redesignated Maid I
-	"11				