



REPUBLIC OF TRINIDAD AND TOBAGO

REPORT TO PARLIAMENT

by

THE INTEGRITY COMMISSION

On its activities for the year 2000

(Pursuant to Section 10 of the Integrity in Public Life Act, 2000)

ANNUAL REPORT

OF THE

INTEGRITY COMMISSION

OF THE

REPUBLIC OF TRINIDAD AND TOBAGO

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# INTRODUCTION

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THE year 2000 was a very significant one. It commenced with the Integrity Commission empowered to conduct its activities under the authority of the *Integrity in Public Life Act, 1987 (No. 8 of 1987)*, (hereinafter called "*the former Act*") and ended with a new Commission empowered to carry out activities under new legislation - the *Integrity in Public Life Act, 2000 (No. 83 of 2000)* amended by the *Integrity in Public Life (Amendment) Act, 2000 (No. 88 of 2000)*, (hereinafter called "*the new Act*"). This new legislation has increased significantly the functions of the Commission and upgraded its powers of investigation and enforcement.

AFTER more than a decade in office, the appointments of the first persons selected to form the Integrity Commission under *the former Act* came to an end. This Commission (hereinafter called "*the former Commission*") came into being when its members were appointed for a period of three years, with effect from 07 January 1988, by instruments under the hand of the then President of the Republic. For four consecutive three-year periods the life of *the former Commission* was extended. Their last term of office ended on 01 April 2000.

THREE and a half months later, on 20 July 2000, the President appointed four new persons and one member of the *former Commission* as members of the Integrity Commission (hereinafter called the "*present Commission*"), pursuant to section 4(1) of *the former Act*.

WITHIN four months thereafter, assent was given to new Integrity legislation - *the new Act*. This new legislation repealed and replaced *the former Act*.

THE focus of *the former Act* was the submission, filing and monitoring of financial declarations of persons prescribed as "*Persons in Public Life*". *The new Act* has expanded the range of persons who will fall under the purview of the Commission and in addition has made provisions to strengthen the investigative powers of the Commission in respect of issues of corruption and integrity of persons prescribed. Included among those provisions are:

- provisions for public disclosure;
- provisions to regulate the conduct of a new category of persons referred to as "persons exercising public functions";
- provisions to preserve and promote the integrity of public officials and institutions; and
- provisions to carry out programmes of public education to foster an understanding of standards of integrity.

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ON 06 November 2000, *the new Act* came into operation by proclamation by the President.

THE YEAR UNDER REVIEW reflects, in the main, the activities of *the present Commission* under the authority of *the former Act*, and also takes into account the last three months of the term of office of *the former Commission*.

THE members of *the present Commission* are:

|                                                                |                   |
|----------------------------------------------------------------|-------------------|
| The Honourable Mr Justice Gerard des Iles, C.M.T. ( <i>g</i> ) | - Chairman        |
| Mr John Martin                                                 | - Deputy Chairman |
| The Honourable Mr Justice Shafeyei M. Shah                     | - Member          |
| Mr Gordon Deane                                                | - Member          |
| Mr Subhas Ramkhelawan                                          | - Member          |

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## CHAIRMAN'S REMARKS

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THIS is the Thirteenth Annual Report of the Integrity Commission (*hereinafter called "the Commission"*) and the FIRST to be submitted to Parliament under the authority of the present Commission which I have the honour to lead. It covers the period January 01 to December 31, 2000 as follows:

January 01 to March 31 reflects the activities of the last three months in office of *the former Commission*; and

July 20 to December 31 reflects the activities of the first five months in office of *the present Commission*.

THE Commission recognises that, globally, there is a growing perception of decline in integrity in public life and, both nationally and internationally, concerns have been expressed for measures to be adopted to curb this decline and to eradicate corruption among public officials. At a symposium, on integrity, hosted by the former Commission in 1993, the then President of the Republic, His Excellency Mr Noor M. Hassanali, T.C., in his opening address, remarked that "*Integrity is now perhaps an endangered virtue*"; and an overview of the said symposium revealed that a recurring theme throughout the discussions was *the importance of public recognition and acceptance of integrity in all aspects of national life*.

IN 1996, at a Commonwealth Law Ministers' Meeting, held in Malaysia, on the topic of Integrity in Public Life, *the concept of society free from the menace of corruption, was accepted to be an essential prerequisite to the achievement of the goal of good governance; and the achievement of this aspiration involved, among other things, the highest level of integrity*.

THE provisions for promoting, in our nation, integrity in public life by way of the *former Act*, was considered to be lacking in scope and application in its attempt to promote the desired standards of acceptable conduct in public life. *The former Commission*, however, held the view that the Act was no more than a first step along the way to enhancing standards of integrity in public life, albeit a necessary first step.

FOR years, in their annual reports to Parliament, that Commission made recommendations for the upgrading of the law, and, in its last Report, submitted to Parliament on 24<sup>th</sup> March, 2000, remarked:

*"We look forward to the time, therefore, when this country will demonstrate further its commitment to integrity in public life by some effective upgrading of the provisions of the current legislation."*

CHAIRMAN'S REMARKS

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ON 06 November last, within the first five months of the term of office *of the present Commission*, the legislation was upgraded considerably and so brought this country in line with those which have taken the lead, in putting mechanisms in place, to bring about the desired standards of acceptable conduct on the part of public officials.

THE task ahead for the Commission, though a challenging one indeed, is to discharge dutifully, efficiently and effectively its responsibilities under the new legislation.

WITH the team of persons who comprise the Commission, I trust that we shall be successful. From the very first meeting, after taking the Oath of Office before the President on 20 July 2000, the commitment of the members has been evident, and I take this opportunity to pay public tribute to each of them for the support I have received.

ON assuming Office, the Commission met a small, highly efficient and dedicated staff under the most capable direction of Miss Angela Brathwaite, Secretary to the Commission. The Staff operates in an atmosphere of unquestionable confidentiality, and is well prepared to provide to all members the necessary support and assistance to facilitate a smooth transition. To them as well, I am extremely grateful and wish to express my deepest appreciation.

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# *THE COMMISSIONERS*

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[IN EXERCISE OF THE POWERS VESTED IN HIS EXCELLENCY THE PRESIDENT BY SECTION 4(3) OF THE INTEGRITY IN PUBLIC LIFE ACT, 1987, THE CHAIRMAN, DEPUTY CHAIRMAN AND MEMBERS OF THE INTEGRITY COMMISSION WERE APPOINTED AFTER CONSULTATION WITH THE PRIME MINISTER AND THE LEADER OF THE OPPOSITION.]

## **THE PRESENT COMMISSIONERS** *(appointments commenced on 2000 July 20, for three years.)*

*CHAIRMAN - The Honourable Mr Justice Gerard des Iles, C.M.T. (q)*

MR JUSTICE des ILES retired from the Bench of the Supreme Court of the Republic of Trinidad and Tobago on 1990 December 31, as the Senior Justice of Appeal. Four months prior to his retirement he was awarded the Chaconia Medal (Gold) for long and meritorious service to Trinidad and Tobago in the sphere of Law.

AFTER graduating from St Mary's College in Port of Spain with a Senior Cambridge School Certificate, he served in the 1<sup>st</sup> Battallon, Trinidad and Tobago Regiment with the war substantive rank of Lieutenant No. 316941, British Army. He was subsequently appointed to the command of an Infantry Company in Trinidad.

IN 1949, he joined the Hon. Society of the Middle Temple, London, England to read Law and obtained 2<sup>nd</sup> Class Honours, placing 7<sup>th</sup> in the Bar Examination in criminal law. In 1953, he was called to the English Bar and admitted to practise as a Barrister-at-Law in Trinidad and Tobago in December of that year. He joined the chambers of Sir Hugh Wooding, T.C., Q.C., and later served from 1956 to 1957 in senior legal capacities in Grenada and Dominica, West Indies.

IN Trinidad and Tobago, he was appointed as Senior Crown Counsel in 1959, and as Solicitor General in 1967. He was appointed Judge of the High Court of Justice in 1969, and Justice of Appeal in 1983.

*DEPUTY CHAIRMAN - Mr John B.C. Martin, F.C.A., C.A.*

MR JOHN MARTIN is a Chartered Accountant with over thirty-five years experience. Since 1966 he has held appointments as president, chairman and member of numerous Boards and Associations. He currently holds the position of Director on the Boards of the following Companies:

C.L. Financial Limited, Colonial Life Insurance Company (Trinidad) Limited, Republic Bank Limited, Republic Investment Company Limited (St Lucia), and Furness Trinidad Limited.



**THE COMMISSIONERS**

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HE is also Chairman of the Trinidad Building and Loan Association and Trustee of the Mount Hope Patients Trust Fund.

HE is a Past President of the Trinidad and Tobago Chamber of Industry and Commerce and of the Lions Club of Port of Spain Central, and has served as Chairman of the Board of Directors of the Trinidad and Tobago Stock Exchange.

HE was appointed to the first Integrity Commission as a member in 1988, and is the only member of that Commission appointed to the present Commission.

*MEMBER - The Honourable Mr Justice Shafeyi M. Shah*

MR JUSTICE SHAH retired from the Bench of the Supreme Court of the Republic of Trinidad and Tobago in 1997, after being assigned as Judge to the High Court of Justice from 1993.

HIS professional career, prior to his assignment to the High Court, spanned a period of thirty-three years from 1959 as Solicitor, and Conveyancer and then Attorney-at-Law in private practice. Since the year 2000, he has been a Legal Consultant and Director of the Haji Ruknudeen Institute.

HE has been the recipient of several awards. He was honoured and presented with a Certificate for "*Outstanding and meritorious service*" in the field of Law by the City of San Fernando, (*the city of his birth*), and was also honoured in recognition of his sterling contributions to the judiciary of the Republic of Trinidad and Tobago, by the Assembly of Southern lawyers.

HE received, from the Scout Association of Trinidad and Tobago, the distinguished "*Medal of Merit and Thanks Badge*" and, from the St John's Ambulance Brigade, a medal for "*long and meritorious service*". The Jaycees also presented him with a trophy for the establishment of Junior Jaycees in Secondary Schools.

HE graduated in 1951 from Naparima College with School Certificate (Grade I) and Higher School Certificate with exemption from Intermediate Bachelors of Arts (University of London). In 1964, he received a scholarship to pursue Courses at the University of Chicago.

## THE COMMISSIONERS

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HE served from 1966 to 1971 as an Elected Member of the House of Representatives of the Parliament of Trinidad and Tobago, and in 1971 was the country's delegate to the Commonwealth Parliamentary Association Meeting in Sydney, Australia.

HE was a Member of the Disciplinary Committee of the Legal profession for twelve years and was the founding member and first Honorary Secretary of the Assembly of Southern Lawyers. He was also a member of the Statutory Authorities Appeal Board for two (2) terms, and in 1996 had judicial contact with the Judges of the Supreme Court of India.

### *MEMBER - Mr Gordon Deane, F.C.I.I.*

MR DEANE, a highly respected Chartered Insurer and businessman, has been the Managing Director of American Life and General Insurance Company (Trinidad & Tobago) Limited, with Regional Executive responsibility for the Caribbean and Panama since 17 October 1994. He has had a very successful career in the financial services sector; a career which began soon after he graduated from Fatima College in 1966.

HE was the first Trinidadian to obtain the F.C.I.I. (Fellow of the Chartered Insurance Institute). He achieved this designation in 1975, having qualified in 1972 as an Associate of the Chartered Insurance Institute (A.C.I.I.). He received additional training in the United States of America (Harvard Business School) and on the job training in England and Canada, respectively.

MR Deane has held positions of Managing Director and Chief Executive Officer in several Insurance Companies in Trinidad and Tobago and has been responsible for successful "*turnaround*" situations in many of them.

SINCE 1975, he has held appointments as President, Chairman and Member of numerous Boards and Associations. Some of these include:

- President of the Trinidad and Tobago Insurance Institute;
- President of the Association of Trinidad and Tobago Insurance Companies (ATTIC);
- President of the Trinidad and Tobago Chamber of Industry and Commerce;
- Chairman of the National Insurance Board and NIPDEC;
- Chairman of the Board of Directors of the Trinidad and Tobago Stock Exchange;
- Member of the Board of Directors of the Trinidad and Tobago Mortgage Finance Company;
- Member of TIDCO and President of the Rotary Club of Port of Spain.

## THE COMMISSIONERS

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*MEMBER - Mr Subhas Ramkhelawan, B.Sc. (Mgt.), MBA*

MR RAMKHELAWAN, has been the Managing Director of Bourse Securities Limited since its inception in 1996. He is the founder of this financial services firm which trades and deals in financial securities.

After completing the B.Sc. in Management at the University of the West Indies, Mr Ramkhelawan was awarded the Canadian Commonwealth Scholarship for business. He pursued an MBA with concentration in finance and strategic planning at the University of Western Ontario and subsequently, received specialist training in mutual fund operations, securitization, mergers and acquisitions, international capital markets and treasury management.

His work experience has traversed the Public and Private Sectors, all at senior management levels and he has served as Director on several Boards including:

Arawak Cement Company of Barbados; Republic Securities Limited (*a wholly owned subsidiary of Republic Bank Limited*); the Export Credit and Insurance Company; and the National Flour Mills Ltd.

HE is currently a Director on the Board of the Trinidad and Tobago Stock Exchange Limited.

HE has lectured extensively in matters of financial and investment management and has published several related papers. For six years he lectured in Financial Management in the M.Sc. Accounting degree program at the University of the West Indies.

### **THE FORMER COMMISSIONERS** (*appointments expired - 2000 April 01, after a period of 3 years*)

The members of the former Commission are:

|                                                    |                   |
|----------------------------------------------------|-------------------|
| The Honourable Mr Justice George Collymore         | - Chairman        |
| Dr James O'Neil Lewis, <i>C.M.T. (g)</i>           | - Deputy Chairman |
| Mr John Martin, <i>F.C.A., C.A.</i>                | - Member          |
| Mr Brian George des Vignes, <i>Attorney-at-Law</i> | - Member          |
| Mr John Ottley, <i>F.C.C.A., C.A.</i>              | - Member          |

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## *OVERVIEW OF THE YEAR'S ACTIVITIES*

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DURING the year of review, EXCLUDING A PERIOD OF THREE AND ONE HALF (3½) MONTHS FROM APRIL 01, PENDING THE APPOINTMENT OF NEW COMMISSIONERS BY HIS EXCELLENCY THE PRESIDENT, the Commission held twenty-one (21) meetings to carry out its main function of monitoring the submission of declarations by '*persons in public life*', and ensuring that such declarations satisfied all the provisions laid down by *the former Act*. Eight (8) of these meetings were conducted by *the former Commission* which held its last sitting on **31 March, 2000**.

IN reviewing its activities for preparation of its last Report to Parliament, that Commission reflected, with regret, on the deteriorating standards of compliance with the requirements for the submission of declarations. At the end of March 2000, twenty-two per cent (22%) of the declarations, which were required to be filed by or **before December 31, 1999**, were still outstanding; notwithstanding the several mechanisms (*prescribed and otherwise*) invoked to encourage compliance. Included among the mechanisms were publication of names in the *Gazette* as required by section 22 of *the former Act*, and reporting to the Director of Public Prosecutions the offence of '*failure to file*', as required by section 28 of the said *Act*.

ON August 04, 2000, two weeks after taking the Oath of Office before the President, *the present Commission* held its first meeting and commenced, immediately, the examination of declarations. From this very first session the Commission expressed concern, not only with the apathy shown by persons with regard to the filing of declarations, but in addition, the indifference shown in completing the prescribed form.

THE number of inaccuracies and inconsistencies observed in declarations filed, seemed to suggest a low level of respect for the provisions of the law and, by extension, for the Commission charged with the responsibility of carrying into effect those provisions. *The former Act*, at section 8(b), provided for the Commission to:

*"make such enquiries as it considers necessary in order to verify or determine the accuracy of the declaration filed under this Act.*

IN several instances the Commission had cause to defer consideration of declarations and to take action in this regard. The Commission is pleased to report, however, that it received prompt responses and full co-operation from many of the persons queried.

### **SUBMISSION OF DECLARATIONS**

SHOWN in the following tables are statistics on the level of compliance with regard to the submission of declarations **under *the former Act***.

**Table 1****DECLARATIONS DUE IN THE YEAR ENDED 2000 DECEMBER 31**

|                                                               | No.        | %          |
|---------------------------------------------------------------|------------|------------|
| <b><i>Declarations required to be filed by 2000.12.31</i></b> | <b>118</b> | <b>100</b> |
| Declarations filed by 2000.05.31                              | 22         | 19         |
| Declarations filed 2000.06.01 to 2000.11.30                   | 49         | 38         |
| Declarations filed after 2000.11.30                           | 10         | 08         |
| <b><i>Total Declarations filed</i></b>                        | <b>81</b>  | <b>69</b>  |
| Declarations due by 2000.12.31 and outstanding at 2001.02.28  | 38         | 31         |

**Table 2****OUTSTANDING DECLARATIONS DUE IN PREVIOUS YEARS****1998 AND 1999**

|                                                                                | No.        | %          |
|--------------------------------------------------------------------------------|------------|------------|
| <b><i>Declarations due in 1999</i></b>                                         | <b>118</b> | <b>100</b> |
| Declarations required to be filed since 99.12.31 and outstanding at 2001.02.28 | 16         | 14         |
| <b><i>Declarations due in 1998</i></b>                                         | <b>119</b> | <b>100</b> |
| Declarations required to be filed since 98.12.31 and outstanding at 2001.02.28 | 06         | 05         |

**OVERVIEW OF THE YEAR'S ACTIVITIES**

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AT the end of the period under review, *the present Commission* had been in office for five (5) months and had held **thirteen** (13) meetings.

NEW Integrity legislation, was introduced in PARLIAMENT in OCTOBER 2000 and amended, assented to and proclaimed by NOVEMBER 06, 2000. The Commission, therefore, at its meetings held during the last two months of the year, focussed its attention on reviewing the provisions of *the new Act* with a view to establishing the appropriate infrastructure to discharge fully its expanded functions and powers as prescribed.

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# THE NEW INTEGRITY LEGISLATION

*The Integrity in Public Life Act, 2000 (No. 83 of 2000) amended by the Integrity in Public Life (Amendment) Act, 2000 (No. 88 of 2000)*

THE main thrust of the new Integrity legislation is the same as *the former Act* which it repealed, (*i.e., the submission, filing and monitoring of financial declarations*). *The new Act*, however, has been considerably strengthened and gives the Integrity Commission increased powers of investigation and enforcement.

*It is interesting to note that studies have revealed that common to all Integrity legislations, throughout the Commonwealth and North America, is the provision for receiving and monitoring of financial declarations, and this is aimed at providing an important safeguard in integrity control.*

*THE new Act (as indeed was its forerunner)* has been enacted in strict accordance with the provisions of the Constitution of the Republic of Trinidad and Tobago.

SECTION 138 of the Constitution as amended by the Constitution (*Amendment*) No. 2 Act, 2000 (*No. 81 of 2000*) and the Constitution (*Amendment*) No. 4 Act, 2000 (*No. 89 of 2000*) provides for the establishment of an Integrity Commission charged with 'inter alia' the duty of:

- *"receiving from time to time declarations in writing of the assets, liabilities and income of Members of the House of Representatives, Senators, Judges and Magistrates, Permanent Secretaries and Chief Technical Officers, Members of the Tobago House of Assembly, Municipalities and Local Government Authorities and Members of Boards of all Statutory Bodies, State Enterprises and the holders of such other Offices as may be prescribed;*
- *"the supervision and monitoring of standards of ethical conduct prescribed by Parliament to be observed by the holders of offices referred to above as well as Members of the Diplomatic Service, Advisers to the Government and any person appointed by a Service Commission or Statutory Authorities' Service Commission;*
- *"monitoring and investigating of conduct, practices and procedures which are dishonest or corrupt."*

THE following are selected highlights of the major provisions of *the new Act*.

## THE FUNCTIONS OF THE COMMISSION

UNDER *the new Act*, in addition to the main function of the monitoring and examination of financial declarations as in *the former Act*, the Commission is required to:

- *Maintain a Register of Interests to be compiled by the Registrar to the Commission and to be inspected, on request, by any member of the public. [This provision is aimed at demonstrating honesty and openness by "persons in public life."];*
- *receive and investigate complaints from members of the public regarding any alleged breaches of the Act;*
- *investigate the conduct of any person falling under its purview which, in its opinion, may be considered dishonest or conducive to corruption;*
- *examine the practices and procedures of public bodies, in order to facilitate the discovery of corrupt practices and advise and assist heads of such bodies of changes which may be necessary to reduce the occurrence of corrupt practices;*
- *carry out programs of public education. [This provision seeks to ensure that everyone, including the public official, understands and is aware of the standards of integrity that are expected and acceptable.]*

## APPLICATION AND SCOPE (*To whom does the Legislation apply?*)

*THE new Act* applies to two (2) categories of public officials - an expanded list of "persons in public life" and a new category - "Persons exercising public functions".

"PERSONS IN PUBLIC LIFE" are listed in the Schedule to the *Act*. This list includes six (6) new groups of public officials (*referred to as declarants*). In addition to requirements under *the former Act*, these persons are subject to the following new provisions:

- *the inclusion in the declarations, which they are required to file with the Commission, of particulars, as are known to them, of the income, assets and liabilities in respect of their spouses and their dependent children;*



THE NEW INTEGRITY LEGISLATION (*THE INTEGRITY IN PUBLIC LIFE ACT, 2000*)

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- *filing with their declarations, an additional statement of registrable interests to be entered by the Registrar of the Commission in a Register of Interests. (The information to be contained in this Statement is detailed at section 14 of the Act); and*
- *they are also subject to a Code of Conduct, which provides for matters of public morality such as Insider trading, acceptance of Gifts and Conflict of interests.*

Research has shown that Registers of Interests and Codes of Conduct are included in many Integrity/Ethics legislations as preventative mechanisms. These mechanisms are designed to avoid conflict of Interests situations arising when decisions and/or actions are to be taken by public officials.

THE new category of "*PERSONS EXERCISING PUBLIC FUNCTIONS*" includes:

- Members of the Diplomatic Service;
- Advisers to Government; and
- All persons holding office under the Public Service, Judicial and Legal Service, Police Service, Teaching Service and Statutory Authority's Service Commissions.

THIS new category of persons is subject, in the main, to the provisions of the *Code of Conduct*. The Code, however, is to be enforced by their respective Service Commissions, and in this regard, it is important to note that the sections of the Constitution (*121, 123 and 125*), which deal with the powers of the Service Commissions, have been amended to include the power to enforce standards of conduct on such officers.

INCLUDED in the Code of Conduct is the provision at section 30 (1) of the *Act*, for "*Persons exercising public functions*" to disclose **to their respective Service Commissions**, on appointment and from time to time,

- (a) *all business, commercial and financial interests and activities in which they are engaged; and*
- (b) *all personal property, assets and liabilities in respect of themselves, their spouses and dependent children.*

## PROVISIONS FOR ENFORCEMENT AND INVESTIGATION

### *MECHANISMS TO ENCOURAGE COMPLIANCE*

*THE new Act* has introduced additional provisions to encourage compliance with the requirements to file declarations of income, assets and liabilities. As indicated earlier in the Report, this has been an area of much concern to the Commission.

PROVISION is made under the Act for the Commission to extend the time for the furnishing of a declaration, **but** for a period **not exceeding six months**.

FAILURE to file after this period, **without reasonable cause**, in addition to publication in the Gazette, *as in the former Act*, the Commission is empowered to publish the fact in **at least One** (1) daily newspaper and, at any time thereafter, to make an *ex parte* application to the High Court for an Order directing such person to comply. In addition, the Court may impose such condition as it thinks fit.

FAILURE to comply with the directive of the Court is **an offence** and a person is liable on conviction to a fine of **One hundred and fifty thousand dollars**.

### *IMPROPER AND INACCURATE SUBMISSIONS*

*THE new Act* provides for the Commission to issue a CERTIFICATE OF COMPLIANCE to a declarant if it is satisfied that the submission made is compliant with the requirements of the *Act*.

HOWEVER, if on examination of the declaration, it finds that the Return is, for example, inaccurate or false or the person has disclosed an income which is insufficient to support the accretion in value of net assets disclosed, so as to raise the inference that there **must** have been other income to account for the acquisition of such assets, the Commission is empowered to require the person to:

- *furnish particulars relative to his financial affairs;*
- *attend at the office in order to verify his submission;*
- *have his declaration certified by a chartered or certified accountant.*

THESE measures should, **no doubt**, provide full disclosure to the satisfaction of the Commission. Further enquiry may however be initiated, if necessary, by way of a tribunal (*as in the former Act*), to be established by the President on the advice of the Commission; and to be conducted **in private** under the *Commissions of Enquiry Act*, (Chap. 19:01)

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FURTHER, the tribunal is empowered, under the *Act*, '*inter alia*' to:

- *direct the Commissioner of Police or such other officer to make further enquiries; and*
- *summon witnesses and require the production of documents, etc.*

## **PROVISIONS FOR INVESTIGATION**

**ESSENTIAL to any effective enforcement procedure is provision for the investigation of possible violations of the law, and this in turn depends on a procedure for commencing such investigation.**

THE *Act* contains provisions, in section 33, for the Commission, on its own initiative (*i.e. when it becomes aware of information which ought to be investigated*) and on receipt of complaints from members of the public, to conduct enquiries into breaches of the *Act* or allegations of corrupt or dishonest conduct. In this regard, the Commission is provided with special powers of investigation with the assistance of investigating officers, in its employ, together with the expertise of any of the country's law enforcement agencies.

## **PUBLIC COMPLAINTS AND SAFEGUARDS**

THE provision for complaints by the public is an important one and the *Act* requires the Commission to enquire into any complaint made.

THERE is, however, the danger of the Commission being overwhelmed with spurious complaints which may obscure genuine complaints. The legislation has taken cognisance of this and has provided safeguards against **frivolous, vexatious and/or groundless complaints.**

A member of the public who wishes to make a complaint may do so in writing under section 32 of the *Act*, but if he *knowingly and mischevously makes a false report or misleads the Commission by giving false information or making false statements or accusations he is guilty of an offence and the penalty on conviction is a fine of five hundred thousand dollars and imprisonment for ten years.*

## OTHER SAFEGUARDS

OTHER safeguards are provided in the *Act* to prevent any occurrence of abuse of powers by the Commission itself. These include:

- ***THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS***

If the curtailment of corruption and misconduct is to be achieved, the mechanisms for punishment must operate effectively, consistently and fairly. In this regard the *Act* provides under section 21. (5) that

*No prosecution under the Act may be instituted without the written consent of the Director of Public Prosecutions;*

and under section 34. (5) that

*Findings arising out of investigations conducted by the Commission shall be reported to the Director of Public Prosecutions who is empowered to take whatever action he thinks is appropriate.*

- ***THE OPPORTUNITY FOR PERSONS TO BE HEARD***

Further, section 38 provides for a person, who is alleged to have failed to fulfil a duty or obligation under the *Act*, to be given reasonable notice of the allegation and allowed full opportunity to be heard either in person or by Counsel.

- ***THE PROTECTION OF INFORMATION***

Under the provisions of section 35 of the *Act*, *the records of the Commission and any information revealed by a witness or by the production of documents, shall not be disclosed, except under certain prescribed conditions. Failure to adhere to this provision by any member of the Commission or any person in the service of the Commission is an offence, the sanction for which, on summary conviction, is a fine of two hundred and fifty thousand dollars and imprisonment for five years.*

▪ **SECREC'Y AND CONFIDENTIALITY**

*Under the provisions of section 20 of the Act, Declarations filed with the Commission and all the records of the Commission in respect of those declarations are secret and confidential and shall not be made public, except under prescribed conditions.*

In the circumstances, the *Act* requires every member of the Commission and every person performing any function in the service of, or as an employee of, the Commission, to make and subscribe to an oath of secrecy before a Justice of the Peace.

*Prosecution of an offence with regard to the secrecy of information is the only instance, under the Act, when prosecution may be instituted without the written consent of the Director of Public Prosectuions.*

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# CONCLUSION

CAN man be made good by an *Act* of Parliament?

AT the symposium - *WHITHER INTEGRITY LEGISLATION* - hosted in 1993, the former Commission sought to answer this question. The answer then, as it is now, is the same -

***"Parliament cannot make man good but it can certainly make him careful. Experience has shown that while legislation by itself may not achieve the goal of creating the moral man, yet its most significant achievement is that it can create a moral atmosphere within which he can feel the constraints of law to keep in check his baser instincts".***

THE Redcliffe - Maude Committee, reporting in 1974 on Local Government rules of conduct in the United Kingdom, observed that -

***"Rules of conduct cannot create honesty; nor can they prevent deliberate dishonest or corrupt behaviour. Rather, they are a framework of reference embodying uniform minimum standards against which conduct and activities can be judged."***

THE *Integrity in Public Life Act, 2000* seeks to create a framework through which the integrity of the nation's public officials and institutions can be monitored, protected and maintained.

THIS Report is respectfully submitted to Parliament, (*Pursuant to section 10 of the Integrity in Public Life Act 2000*), on this ..... day of March 2001.

.....  
Gerard des Iles  
Chairman

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John Martin  
Deputy Chairman

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Shafeyei M. Shah  
Member

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Gordon Deane  
Member

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Subhas Ramkhelawan  
Member