



REPUBLIC OF TRINIDAD AND TOBAGO

REPORT TO PARLIAMENT

by

THE INTEGRITY COMMISSION

on its activities for the year

1996

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

THE NINTH ANNUAL REPORT
OF THE
INTEGRITY COMMISSION
OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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ANNUAL REPORT
OF THE
INTEGRITY COMMISSION
of the Republic of Trinidad and Tobago
FOR THE YEAR 1996

INTRODUCTION

This Report reflects the activities of this Commission in the ninth year of its existence. We were constituted under the authority of the President on the 7th day of January, 1988, and our current term of office will expire on the 31st March, 1997.

From the very inception of the life of this Commission there has been public reservation as to the effectiveness of the Integrity in Public Life Act of 1987 in the achievement of the objective of integrity in public life; and our Commission has been concerned to make a critical examination of its powers in the light of the experiences of similar institutions abroad. From this we have concluded that the current integrity legislation should be considered to be no more than a first step (albeit a necessary one) in the establishment of adequate integrity standards, and indeed, all our Reports to Parliament have reflected our recommendations as to the path along which we should travel in order to establish meaningful legislation that would command public respect.

We think that the moment of decision has now arrived for the Parliament to accept or reject the far reaching changes envisaged in the Green Paper produced by a Working Party under the chairmanship of Mr. Justice Guya Persaud in the year 1995. Our Commission had the honour to be represented on that Working Party, and, as mentioned in our 1995 Report, we are in complete agreement with its provisions. It is, therefore, hoped that legislation on integrity in accord with the will of the people will now find its place on our statute books.

There have continued to be expressions of this need for more effective legislation from all political parties, and indeed, from the public in general, so therefore we consider that any review of the existing provisions of law with a view to their update would be most timely. We shall advert to this topic again later in this Report.

ACCOMMODATION

At the time of writing this Report it is anticipated that we should soon be moving from offices where we have been housed since March of 1995, at the Furness Building on Independence Square, into offices prepared for us in the recently constructed Industrial Court Building on St. Vincent Street, Port of Spain.

A caveat which we would enter is that if it is proposed to expand the powers of this Commission, then we would need to look further ahead to make provision for an enlarged staff. The accommodation now being offered is sufficient to provide for our present clerical arrangements (which have remained the same as last year's) but more office space would be needed if provision were to be made for an expanded Commission.

REGISTER OF PERSONS IN PUBLIC LIFE

On the positive side, more persons now make accurate returns and show a greater compliance with the provisions of law than in previous years. On the negative side, however, there is still shown a great apathy by a number of persons in the submission of their Returns within the time frame laid down by law, as reflected in the Record of Returns hereunder. All in all, though, there has been exhibited a greater respect for the provisions of law, and a willingness to co-operate with the officers of the Commission in the performance of these duties. However, there have been a few persons whose names we have felt constrained to publish for their disregard of all attempts by our officers to effect compliance with the law.

In this respect, we wish to call attention once more to the provisions of section 15(1) of the Integrity in Public Life Act, 1987 that:

"A person in public life shall, on or before 31st May in each year, file in respect of the year immediately preceding the declaration required of him under this Act."

RECORD OF RETURNS

The number of declarants on record at the end of the year 31st December 1996 is one hundred and forty (140). Our record of declarations filed is as follows:

Declarations filed as at 31st May 1996	24 or 17%
Declarations filed as at 30th September 1996	74 or 53%
Declarations filed as at 31st December 1996	102 or 73%
Declarations filed after 31st December	13 or 9%

Since 31st December, 1996 our record is as follows:

Total number of Declarations filed	115 or 82%
Declarations reviewed and certified	114 or 81%
Declarations outstanding	25 or 18%

INTEGRITY IN PUBLIC LIFE

In our 1995 Report we propounded eight principles which were the pillars upon which we considered integrity legislation should be founded. In this Report, we may be forgiven if we expand a little upon some of those provisions.

THE SUPREMACY OF PARLIAMENT

Parliamentarians are jealous (and rightly so) of any provision which might derogate in any way from the supreme authority of Parliament. Under our Constitution Parliament is supreme in the sphere of law making, and no body outside Parliament may encroach upon that supremacy or hinder any member of Parliament in the carrying out of his parliamentary functions. Members of Parliament are free from any constraints of law with regard to their utterances in Parliament or their behaviour in Parliament, and are subject only to the control which Parliament itself lays down for good order. This control is exercised by the Speaker of the House or the President of the Senate with regard to the conduct of their proceedings, or by the Committee of Privileges, which is empowered to examine and report to Parliament upon the conduct of any person who is considered to be in breach of its rules.

These are well known provisions which are fully understood by most persons in our society, and it should be sufficient to do no more than state them for the record. Where then does an Integrity Commission fit into this scenario? Should an Integrity Commission, composed of persons outside Parliament, be permitted to execute sanctions upon Members of Parliament for breaches of a code of conduct? Our Commission says No, and the Green Paper on integrity legislation emphasizes that point. We consider that the responsibility for the exercise of discipline over any member of Parliament should remain always with the Parliament itself, for to place such a power in any body outside Parliament would be seen to be a derogation of the Supremacy of Parliament.

We adverted to this Report in our 1995 Report to Parliament; and we note that the stage to which this matter has now reached is that a Joint Select Committee of Parliament has been appointed to consider the Green Paper on Integrity in Public Life and also to receive and consider the comments of members of the public and to submit recommendations to Parliament.

GREEN PAPER ON INTEGRITY IN PUBLIC LIFE

An Interim Report of this Committee (House of Representatives Paper No. 9 of 1996 dated 8th November, 1996) shows that the task of this Committee is "largely incomplete".

What the Green Paper seeks to do is not to subject any member of Parliament to a discipline that may be exercised by any outside body, but rather to establish that where a breach of conduct is alleged against a person in public life, then Parliament may seek assistance of the Integrity Commission by a reference to it of a specific allegation for its enquiry and report.

We think that such assistance can be of invaluable help to Parliament where difficult and complex situations arise, when an enquiry can be undertaken by an impartial body of persons divorced from any political associations. Such an enquiring body should not merely find the facts, but should also advise upon what punishment is appropriate to the misdemeanour found, if guilt is established. The responsibility would thereafter rest with the Parliament, upon the receipt of that Report to act upon it in their absolute discretion. Parliament would then have accepted the political responsibility of the decision they would make, for its members are answerable to the electorate for their decisions. There would also be the responsibility of a free and vigilant press to ensure that the issues aired are laid squarely before the general public.

The great advantage we envisage to be got from such a system is that where important issues arise that impinge upon the conduct of any member of Parliament, then it would be infinitely preferable to remove such an issue from the realm of political allegiance, which may cast doubt upon the findings, into the jurisdiction of a completely independent and impartial body, which can pronounce authoritatively upon the matter. The great benefit to society by this provision would be that not only would wrongdoers be exposed in their wrongdoing, but that innocent persons in public life may have their names cleared of false allegations made against them. Persons in public life may be subjected to unfounded allegations which, when repeated often enough and loudly enough, and given wide publicity, may eventually gain the currency of truth, to the detriment of the innocent party. It would be much better, then, for such an allegation to be aired before an impartial body, and the untruth be exposed for what it is.

THE RULE OF LAW

The further element of the Rule of Law cannot be over-emphasized. Where persons in high places subvert the law, then the whole fabric of our society would be endangered if the wrongdoers cannot be brought to account through fear of retribution. The Green Paper would make all "persons in public life" as defined, subject to rules of conduct, and accountable for their actions; and the strength of the proposed integrity legislation would lie in the fact that all such persons may be brought to account where the facts of any misdemeanour are ascertained by an impartial and independent Integrity Commission and their findings reported to the Parliament.

Under existing legislation, the independence of the Integrity Commission is written into the law. We consider that in any review of this legislation, a similar provision should be written into the Constitution (as is the case of the Ombudsman) so as to make it abundantly clear to the public that decisions honestly taken by this Commission in the conduct of their duties are removed from any outside influence or control.

PERSONS IN PUBLIC LIFE

A significant feature of the Green Paper is the proposed enlargement of the ambit of the definition of "persons in public life":

"The targeted areas of scrutiny for integrity standards should be towards those persons in public life who are engaged in the policy making process."

The jurisdiction of the Integrity Commission would then include:

- Members of the House of Representatives;
- Ministers of Government;
- Parliamentary Secretaries;
- Members of the Tobago House of Assembly;
- Members of the Municipalities;
- Members of Local Government Bodies;
- Members of Boards of those Statutory Bodies and State Enterprises prescribed by Parliament;
- The spouses and minor children of such persons.

A notable omission from the existing provisions of the 1987 Act is the category of Permanent Secretaries and Chief Technical officers who have been removed from the jurisdiction of the Integrity Commission to that of the Public Service Commission on the ground that while they indeed influence the making of policy, they do not actually make policy, but are themselves "managers" whose financial dealings and official conduct fall squarely under the jurisdiction of the Public Service Commission as established under the Constitution. A further comment will be made on this topic hereunder.

CODE OF ETHICS

An important feature of the structure of the provisions for integrity legislation is the establishment of a general Code of Ethics that would apply to all "persons in public life" as well as to all "persons exercising public functions", which should be enforced by the Parliament and all the other bodies subject to the Code.

THE SUPERVISORY JURISDICTION OF THE INTEGRITY COMMISSION

Persons subject to the Code could then be called to account by the Parliament or the bodies to which they belong, and if considered necessary, a reference may be made to the Integrity Commission by those bodies for its examination and report.

A significant feature is that in the case of the Municipalities, local Government Bodies and Corporations, the responsible Minister or the Prime Minister may submit to the Integrity Commission any question regarding those bodies for its examination and report. This is in regard to the ultimate responsibility of the Executive to the Parliament for good order or matters affecting the public weal in the conduct of affairs of those bodies.

PUBLIC SERVANTS

The Green Paper recommends that there should be a Civil Service Code of Conduct, and we believe that steps have already been made in that direction by the Service Commissions, placing the responsibility for the control of misconduct with those bodies. This, it is conceived would include a monitoring of the financial dealings of all such officers (and not merely Permanent Secretaries and Chief Technical Officers as set out in the Integrity Act).

While, therefore, public officers would be removed from the definition of "persons in public life" as set out in existing legislation, they would now be defined as "persons exercising public functions" and as such, be subject to the supervisory jurisdiction of the Integrity Commission if and when any reference to that body should be made by the Commissions to it for its adjudication and report.

PROGRAMME OF EDUCATION

Finally, the Green Paper reports that:

"Higher standards of conduct should be inculcated through education and guidance."

Our Commission places great emphasis on this provision, which would entail a programme of continuing education to the general public, beginning with children of school age, and enlisting the support and participation of persons of varying walks of life throughout the community.

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Our Report is respectfully submitted to Parliament this 25<sup>th</sup> day of MARCH 1997.

***GEORGE COLLYMORE***  
***Chairman***

***JAMES O'NEIL LEWIS***  
***Deputy Chairman***

***JOHN MARTIN***  
***Member***

***JOHN OTTLEY***  
***Member***

***BRIAN DES VIGNES***  
***Member***