

INTEGRITY IN PUBLIC LIFE ACT

The Attorney General (Sen. The Hon. Bridgid Annisette-George): Mr. Speaker, I am authorized by the Cabinet to make the following statement:

Mr. Speaker, the Integrity in Public Life Act No. 83 of 2000 brought under its purview persons described as “persons in public life and persons exercising public functions”. Under the Act, persons in public life and persons exercising public functions are regulated through a Code of Conduct, while persons in public life are in addition required to the Integrity Commission by making annual declarations of their income and assets and completing an annual register of interests.

The Act also created certain offences and empowered the Integrity Commission to investigate persons coming within its ambit either on its own initiative or on the basis of a complaint made by a member of the public.

The persons who were categorized as persons in public life were specified in the Schedule of the Act which was subsequently widened by the Integrity in Public Life (Amdt.) Act No. 88 of 2000 to include among other offices judges and magistrates appointed by the Judicial and Legal Services Commission and members of boards of all statutory bodies and state enterprises including those bodies in which the State has a controlling interest.

The inclusion of judges and magistrates as persons in public life for the purposes of the continuous reporting obligation to the Integrity Commission has been a matter of much public debate and had engaged the attention of this honourable House since December 2004 in a statement made by the former Attorney General.

Mr. Speaker, the question as to whether Judges and Magistrates ought to

be subject to the reporting obligation to the Integrity Commission was addressed in the matter of the Integrity Commission and the Attorney General High Court action No. 1735 of 2005 in which the learned Judge held that Judges and magistrates were not subject to the provisions of the Integrity in Public Life Act, 2000.

Further Mr. Speaker, in that matter questions were also raised regarding the identification of the institutions, agencies and organizations which fell under the designation of all statutory bodies and state enterprises including those bodies in which the State has a controlling interest. The learned Judge at paragraph 250 of the aforementioned decision, held that on a proper interpretation:

- (i) all organizations or bodies established by statute and
- (ii) all businesses or companies controlled by or on behalf of the State were caught by the description of “all statutory bodies and state enterprises”, and that further all persons who are part of the decision-making process or who are responsible for the management of those bodies were governed by the Integrity in Public Life Act.

Additionally, although the honourable Judge in the said decision set out a three-pronged formula for the identification of businesses or companies controlled by or on behalf of the State, there still exists confusion in the identification of which organizations qualify under the formula.

The consequences of this decision by the High Court are quite far reaching as a multitude of ordinary citizens are now recognized as falling under the ambit of the Act; a situation which this Parliament certainly did not intend

when it amended the Act in 2000.

Mr. Speaker, it now appears that every director and manager of every charitable, sporting, professional, religious and cultural association, organization and society which has been incorporated by an Act of Parliament would have to comply with the annual reporting requirement of making declarations of income and assets and registration of interests to the Integrity Commission and are now potential subjects to investigation by it.

Mr. Speaker, may I crave the indulgence of this honourable House to list some of the organizations associations and societies affected by this High Court decision. These include the directors and managers of societies such as:

The Trinidad and Tobago Society for the Prevention of Cruelty to Animals;

Horticultural Society of Trinidad and Tobago;

St. Joseph's Convent Past Pupil Association;

All the Lions Clubs incorporated by an Act of Parliament.

Sporting associations such as:

The Trinidad and Tobago Wrestling Association;

Trinidad and Tobago Football Association;

Trinidad and Tobago Netball Association and

The Trinidad and Tobago Secondary Schools Football League.

Other organizations, the likes of:

Independent Baptist Mission Churches;

Sanatan Dharma Maha Sabha of Trinidad and Tobago;

SWAHA;

Soroptimist Club of San Fernando;

Pan Trinbago;
Hindu Women's Association of Trinidad and Tobago;
Trinbago Unified Calypsonians Organization; and
The National Chutney Association

Directors and managers of these organizations and other similar bodies are, by the judicial interpretation of the legislation, now held to fall within the ambit of the Integrity in Public Life Act.

Such a situation is, in the Government's view, an unnecessary and untenable encroachment on the Lives and privacy of our citizens. Additionally, the burden that shall be placed on the Integrity Commission in the administration of such a scheme could so negatively impact upon its financial and human resources, leading to systemic weakness and preventing the Commission from fulfilling its mandate as set out in section 5 of the Act.

Mr. Speaker, arising from the Government's experience in making appointments to the boards, it appears that many a suitable and well-qualified citizen has shied away from accepting the call to public service on account of the continuous reporting requirements of the Act and the invasive investigative powers of the Integrity Commission as it relates to them, their spouses and their dependent children. The Government, however, has to balance this reality with its international obligations under the several international treatise to which it is a signatory.

Mr. Speaker, as a consequence the Government intends to make legislative changes which will not only meet our international obligations but shall also have as its overarching consideration that the identification of a person in public life in the Act must be consonant with the definition of a public

official as commonly understood in our cultural context. As a starting point the Government shall reconsider the underlying policy of the repealed Integrity in Public Life Act, 1987.

Mr. Speaker, the Government further intends to closely scrutinize the procedure for making complaints to the Integrity Commission and the consequential procedure for investigation.

This Government ascribes to the principles of integrity, honesty and transparency in public life. The Government of Trinidad and Tobago in its operational plan 2007—2010 for the achievement of Vision 2020, speaks to one of the pillars of Vision 2020 as promoting effective Government. The Government has deliberately put the spotlight on the issue of effective government, since this serves as a catalyst for change in our society and a main driver of improvements in the quality of life in the country.

Mr. Speaker, the Government appreciates that it must lead by example, and therefore, must itself function in accordance with the highest standards of public accountability, transparency, efficiency and integrity and must subject itself and its officials to scrutiny and disclosure.

However, the Government recognizes that protection must also be afforded to civic-minded, well-qualified and suitable citizens who have made and are willing to make themselves available to public service from being unnecessarily and unjustifiably harassed by a microscopic inquisition based on a spurious or vindictive complaint and that there must exist adequate safeguards against persons in public life falling victim to unjustified and irreparable damage to their reputation.

At present, Mr. Speaker, any person who wishes to make an allegation

against a person in public life needs only to do so in writing. In contrast to other jurisdictions with similar legislation, there is no requirement in the Integrity in Public Life Act, 2000 mandating the accuser to verify his complaint on oath or to provide supporting evidence to establish reasonable belief in his complaint or even to supply evidence to support that his allegations are of any substance. This cuts across a fundamental principle of natural justice that he who alleges must prove.

It is now quite apparent that this very lax procedure for laying complaints may amount to a licence to the public to engage in frivolous and malicious complaints to the Integrity Commission, leading to the investigation of such complaints amounting to a waste of the Commission's time and resources and causing injury to falsely accused persons.

It is here Mr. Speaker that I wish to quote Mr. Stephenson King of the United Workers Party in St. Lucia, who presented a paper entitled: *Pursuing Integrity in Public Life*, on May 30, 2005. He noted, and I quote:

“Public scrutiny is a continuous thing, but we all must understand our role is not to embarrass public officials, but to monitor their behaviour to ensure that it is consistent with the principles of integrity.”

In the Government's view, this is a statement that any Integrity Commission should wish to use as its beacon.

Mr. Speaker, one can therefore expect that in presenting legislative amendments to the Integrity in Public Life Act, this Government shall ensure that enshrined in the Act, will be procedures for the laying of complaints, and for the pursuit of investigations by the Commission which reflect and mandate compliance with the principles of natural justice.

Mr. Speaker, the Government shall be inviting the Opposition to lend its support in due course to the passage of appropriate amending legislation, which shall ensure that the legislation complies in all respects with the supreme law of the land and streamlines the Integrity in Public Life Act to focus more accurately and precisely on the objectives for which it was originally intended.

The Government assures this honourable House, and by extension, the citizens of the nation, that in consideration of amendments the Government shall hold true to the seven accepted essentials necessary for beating corruption that is to say:

- Political will and commitment;
- Strong laws that reflect the values of the community combined with effective investigative powers;
- A clear, complete, coherent strategy for the elimination of opportunities for corruption from the system which is aimed at both prevention and education;
- Coordinated action resulting from such a coherent strategy;
- Provision of adequate resources;
- Enlistment of public support in flagging breaches; and
- Exhibiting the requisite endurance and commitment in the eradication of the potential for corruption for those in public life.

3.45 p.m.

Mr. Speaker, may I add that gaining and keeping the public trust must be approached holistically and this Government intends to continue to approach the issues of integrity, transparency and accountability in a holistic manner.

Finally, I wish to end by stating that this administration unreservedly recommits itself to upholding the rule of law and the principles of natural justice and to foster further, these principles in all of its affairs.

I thank you.