

*Leave of Absence**Thursday, January 07, 2010***HOUSE OF REPRESENTATIVES***Thursday, January 07, 2010*

The House met at 1.30 p.m.

PRAYERS[MR. SPEAKER *in the Chair*]**LEAVE OF ABSENCE**

Mr. Speaker: Hon. Members, this being the first sitting of the new year and the last, perhaps, for the Second Session of the Ninth Parliament, let me welcome you back to this House. I hope that all of you had a very good Christmas with your families. I am sure that all of you would have made the appropriate resolutions for the new year.

I have also received communication from the hon. Kelvin Ramnath who informs me that he is not too well [*Laughter*] and is seeking leave of absence from today's sitting of the House. The leave which the Member seeks due to ill health is granted.

PAPERS LAID

1. Annual report of the Ministry of Science, Technology and Tertiary Education for the period October 1, 2007 to September 30, 2008. [*The Minister of Science, Technology and Tertiary Education (Hon. Christine Kangaloo)*]
2. Annual audited financial statements of the National Maintenance Training and Security Company Limited for the year ended December 31, 2008. [*The Minister of Works and Transport (Hon. Colm Imbert)*]

To be referred to the Public Accounts (Enterprises) Committee.

SELECT COMMITTEE REPORT**Local Government Bill****(Presentation)**

The Minister of Tourism (Hon. Joseph Ross): Mr. Speaker, I wish to present the Report of the Joint Select Committee appointed to consider and report on the Local Government Bill, 2009.

ORAL ANSWERS TO QUESTIONS

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, the Government can answer question No. 121 today.

The following questions stood on the Order Paper:

**Johns Hopkins University/Hospital
(Terms and Conditions of Arrangement)**

8. Could the hon. Minister of Health state:
- (a) whether there is any formal arrangement between the Government of Trinidad and Tobago/Ministry of Health and the Johns Hopkins University/Hospital for the provision of services to the people of Trinidad and Tobago; and
 - (b) if the answer to (a) is in the affirmative, could the Minister state the terms and conditions of the arrangement? [*Dr. H. Rafeeq*]

**Registered Private Hospitals
(Details of)**

25. Could the hon. Minister of Health state:
- (a) how many private hospitals are registered under each of the (6) classes of private hospitals according to the Laws of Trinidad and Tobago, Chap. 29:03, section 8;
 - (b) the date the licence was issued for each; and
 - (c) what was the last date an inspector or inspection team inspected the hospital as required according to sections 18 and 19 of Chap. 29:03 of the Laws of Trinidad and Tobago? [*Dr. T. Gopeesingh*]

**Summit of the Americas
(Details of Cost)**

58. Could the hon. Minister of Finance state:
- (a) The budgeted cost for the Summit of the Americas?
 - (b) Whether there were any cost overruns? and
 - (c) If the answer to (b) is in the affirmative, how much did the overruns amount to and the areas where they occurred? [*Mr. V. Bharath*]

**Pre-Summit Preparations
(Details of)**

- 64.** With respect to the pre-summit preparations could the hon. Minister of Trade and Industry and Minister in the Ministry of Finance please advise:
- A. The number of personnel who were hired;
 - (i) to clean the area along the route travelled by the summit participants; and
 - (ii) paint the curb walls and road barriers along the route? and
 - B. Whether this work was done by existing CEPEP and URP workers? [*Mr. J. Warner*]

**National Flag
(Details of)**

- 110.** With respect to the national flag located at the Hasely Crawford Stadium could the hon. Minister of Sport and Youth Affairs state:
- (a) the dimensions of the National flag;
 - (b) the cost of the flag, flagpole and any cost associated with the erection of same;
 - (c) the name of the supplier of the flag and flagpole; the procedure for the procurement of this particular flag and flagpole; and
 - (d) whether there are any recurrent costs associated with the flag; if the answer is in the affirmative, please state the costs? [*Mr. J. Warner*]

**Prime Minister
(Details of Lawsuits Against)**

- 117.** With respect to the lawsuits determined in the courts against the Prime Minister by Public Officials and other persons for the period December 2007 to date, could the hon. Attorney General provide this House with the following:
- (a) a list of all such court matters;
 - (b) the applicants who filed these matters;
 - (c) the judgment in each matter; and
 - (d) the total cost borne by taxpayers in each matter, and a description of costs incurred? [*Mr. W. Peters*]

**Caribbean Games 2009
(Budgetary Allocation)**

119. Could the hon. Minister of Sport and Youth Affairs state:

- (a) the actual budgetary allocation that was set aside by his Ministry for the recently cancelled Caribbean Games 2009 which were scheduled to be held in Trinidad and Tobago from July 13—19;
- (b) in light of the cancellation of the Caribbean Games 2009 because of the H1N1 outbreak, how much was actually spent in planning the event;
- (c) if the excess budgetary allocation was utilized for other projects;
- (d) if the answer to (c) is in the affirmative, provide a list of those projects and the amounts allocated to each; and
- (e) if the answer is in the negative, indicate how such funds were utilized?
[*Mr. J. Warner*]

**Twenty-Twenty Champions League
(Reward to Cricketers)**

120. Could the hon. Minister of Sport and Youth Affairs state:

- (a) given the recent successful participation by Trinidad and Tobago in the Twenty-Twenty Champions League in India, whether his Ministry has proposed any financial or other reward to the cricketers and technical staff; and
- b) if the answer is in the affirmative, what is the reward and when would it be presented? [*Mr. J. Warner*]

Questions not answered.

Mr. Speaker: You have been deputed by the Member for Chaguanas West to ask this question on his behalf. Have you?

Mr. Winston Peters (*Mayaro*): Yes.

**Chief Magistrate Sherman Mc Nicholls
(Legal Fees)**

121. Mr. Winston Peters (*Mayaro*) on behalf of Mr. Jack Warner asked the hon. Minister of Sport and Youth Affairs:

Could the Minister confirm:

- (a) whether the State will pay or has paid the legal fees of the Chief Magistrate, Sherman Mc Nicholls, with respect to his appeal to the Privy Council on November 09; and
- (b) whether the State paid the travel costs to London for local attorney Ian Benjamin relative to the appeal referred to at (a) above?

The Attorney General (Sen. The Hon. John Jeremie SC): Mr. Speaker, the State has neither paid nor has been requested to pay the legal fees of the Chief Magistrate, Mr. Sherman Mc Nicholls, with respect to his appeal to the Privy Council on November 09.

Similarly, the State has neither paid the travel cost to London nor has it been requested to pay the travel cost to London for local attorney Ian Benjamin in respect of the said appeal.

INTEGRITY IN PUBLIC LIFE (AMDT.) BILL

Senate Amendments

The Attorney General (Sen. The Hon. John Jeremie SC): Mr. Speaker, I beg to move the following Motion:

Be it resolved, that the Senate amendments to the Integrity In Public Life (Amdt.) Bill, 2009, which are listed in Appendix III of the Supplemental Order Paper be considered.

Question proposed.

Question put and agreed to.

Clause 3.

Senate amendment read as follows:

Delete the word “alleged” wherever it occurs.

Mr. Jeremie SC: Mr. Speaker, I beg to move that the House doth agree with the Senate in the said amendment.

Integrity In Public Life (Amdt.) Bill
[SEN. THE HON. J. JEREMIE SC]

Thursday, January 07, 2010

We have deleted the word “alleged” in the clause. It does not change the sense of the provision.

Question proposed.

Mr. S. Panday: Mr. Speaker, clause 3 of the Bill before the House says:

“...the Act is amended by deleting paragraph (e) and substituting the following paragraph:

‘(e) receive and investigate complaints regarding any alleged breaches of this Act or any alleged commission of an offence under the Prevention of Corruption Act;’”

What does the amendment before us today, state?

It states that wherever "alleged" occurs, delete it. In order to understand the full purport of that amendment, one has to look at the parent Act, in particular section 5 to see with what we are dealing.

Section 5(1) of the Integrity In Public Life Act No. 83 of 2000 says that the commission shall receive and investigate complaints regarding any alleged breaches of this Act and the commission of any suspected offence under the Prevention of Corruption Act.

The reason we were saying, receive and investigate complaints regarding any alleged breaches of this Act is if the commission shall carry out those functions like receiving and investigating complaints under section 5(1)(a), those complaints could be made by members of the public. The members of the public may have information, they may not have evidence, about certain things, for example, if somebody has committed a wrong.

The evidence to substantiate such an allegation might be in the possession of the person against whom you are making the allegation. We humbly submit that the word "alleged" should have been left there.

The purport of this amendment is that you are putting an onus upon the person who is making the complaint to prove his case before he reports. That is almost impossible for members of the public. If it is said that there was a contract and somebody got a kick-back or a contractor took a chairman of a board for holidays abroad or paid his telephone bill, he may have information, but the exact evidence may not be in his possession.

In those circumstances, it appears to us that this amendment is to protect certain people who have been appointed by the Government, in particular,

members of those special purpose companies. They are in control of the company and procedure. In those circumstances, when you take out the word "alleged" the commission would say that the commission shall not therefore, receive and investigate complaints because the person who is making the complaint must prove that there are breaches of the Act and the commission of the offence.

I am looking at both 209 and 83 of the Integrity In Public Life, 2000, in particular 5(1)(e). If we delete the word "alleged" it would read like this, "shall receive and investigate complaints regarding any breaches..."

How could a member of the public determine when a breach has indeed occurred? The most a member of the public can do is say that he or she has information of this act and the alleged commission of any offence under the Prevention of Corruption Act. We are putting too much burden on the public in reporting malfeasance on the part of public officers.

We are diluting the legislation to such an extent that we would allow those chairmen and directors of those special purpose companies or state companies to be laughing at us in Parliament in that we are creating a loophole, so that corruption can persist. We object to this.

Mr. Jeremie SC: Mr. Speaker, the use of the word "alleged" in the clause does nothing to change the sense of the subsection. The Integrity Commission would investigate as the section provides. It would be receiving and investigating complaints in respect of breaches. There is no difference between that and receiving a complaint in respect of an alleged breach. It does not change the sense of the section.

Question put and agreed to.

Clause 4.

Senate amendment read as follows:

Delete the word "shall" in proposed subsection (2) and substitute the word "may".

Mr. Jeremie SC: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

The reason for the amendment is that the Members in the other place felt that the President should not be mandated to terminate the appointments of members of the commission. This clause empowers him to do so. In the circumstances which are set out in the clause, he has a discretion to appoint and it was felt that he ought to have a discretion to revoke.

1.45 p.m.

Dr. Gopeesingh: Clause 4, as we have it in the Laws of the Republic of Trinidad and Tobago indicates section 4(2). Am I reading you correctly that at least one member of the commission shall be an attorney-at-law of at least 10 years experience?

Mr. Jeremie SC: You are looking at the wrong section. Look at the amendment Bill; not the Act.

Mr. S. Panday: The Member for Tabaquite may be more of an expert in this area, but, in interpretation, sometimes "shall" and "may" are interchangeable. It seems to me, in statutory interpretation—

Mr. Jeremie SC: "And" and "or"; not "shall" and "may".

Mr. S. Panday: I wanted time to research this, but last night at 8 o'clock I was given this. I did not have time to research it. They bring this legislation on the last night before the House is prorogued. We wanted time to prepare. Giving us this so late puts us in an embarrassing position.

In the other place, they indicated that the President may terminate the appointment of a member of the commission where the member is not functioning. Why are we giving the President that discretion? We have done it before—given him the discretion to appoint the Integrity Commission. Look at what happened. It is going on one year. He appointed one; one is a plagiarizer; the other one was promised something and the Integrity Commission collapsed. It is almost one year that the commission has not been appointed. Maybe if the law had indicated that "the President shall" and compelled him to appoint the commission, we would have had the commission in place today.

I do not see why we cannot say "compel the President to act". If you are changing the word "shall" to "may", one would expect substantial amendments to the whole clause. In these circumstances, look at what we are trying to do. It says:

“(2) The President shall terminate the appointment of a member of the Commission where the member—

(a) is found to be of unsound mind and is incapable of carrying out his duties;”

Why give him discretion like that? Medical evidence shows that it should be persons of unsound mind and incapable of carrying out their duties. Do you think that the President should have been compelled to act?

“(b) becomes bankrupt or compounds with his creditors;”

The law says that if you are bankrupt you cannot hold this office. We are giving His Excellency The President the discretion to allow a bankrupt to continue as a member of the commission when that person is supposed to be someone of such high reputation, who himself is investigating financial transactions of persons in public life. Are we going backward to say that a bankrupt may continue to be a member of the commission? Or are we allowing that person to hold such a position to investigate persons in public life, including persons of the highest office like persons in the public service and the hon. Prime Minister? How could we allow that? Would that person not compromise the proceedings of the Integrity Commission?

In this legislation, when you speak about integrity in public life, which is sacred and important and which goes to the root of good governance, we should be clear and firm. I would have thought that if the Attorney General had indicated that the President—we shift from "shall" to "may"—terminate the appointment of a member under these circumstances, what are the guidelines to direct the President in the way he acts?

That is such a fundamental amendment that there should have been a further amendment giving guidelines under which circumstances the President may act. That is why I do not know, as the Attorney General indicated in the other place, if we should not force the President to act.

This is serious legislation which affects very important persons in the society and the whole fabric of integrity in public life and as such we cannot play games. Suppose the President says he does not intend to act. When you give this discretion to the office of the President, one must take into consideration that the office cannot be brought to the court for any act done in pursuance of his duties. By changing "shall" to "may", we are creating a discretion which may not be exercised properly and the society will be denied the opportunity to contest that in court.

If, for example, that person who remains a member of the Integrity Commission acts on my file and I know he is bankrupt and I feel he acted in such a way that is averse to my interest, and I write to the President saying that he is bankrupt and the President says: "That is your business; I have the discretion not to remove him," and decides not to remove him, where does that put the man who has been wronged by such a decision?

When we pass legislation, we are passing legislation, not only for a few, but for all the persons affected, so we must be fair to ensure that although someone is burdened with this heavy load of the Integrity in Public Life Act, he is given a chance to ensure that he is not taken advantage of.

“(d) is guilty of misconduct in relation to his duties;”

Integrity In Public Life (Amdt.) Bill
[MR. S. PANDAY]

Thursday, January 07, 2010

What is misconduct? What is the extent of misconduct that His Excellency The President will deem necessary? If it is a minor infraction—[*Interruption*] I will have to ask for protection from the hon. Prime Minister.

Mr. Imbert: Hurry up!

Mr. S. Panday: You bring this the day before the Parliament prorogues and you tell me to hurry up. The Minister is trying to speak to me the way he speaks to my colleagues in the tea room. Do not speak to me like that, please.

Misconduct can mean something from a minor infraction to something serious. At which stage are we giving the President the authority to use his discretion? One would have thought that there would have been substantive amendments to the Act when you try to make that amendment.

It says "misbehave in office". What is misbehaviour in office? Is there a definition in the Act for misbehaviour in office? He may probably behave like a "wajang" in a meeting. He may be like the Member for Diego Martin West—have a good point; fighting corruption, but may behave like a "wajang". Would you say that is misbehaviour in office?

Therefore these words which—

Mr. Imbert: Mr. Speaker, Standing Order 36(1). We are supposed to be debating the difference between "may" and "shall"; nothing else.

Mr. Speaker: That is true, but he is debating in the context of the substantive clause.

Mr. S. Panday: I know my friend is slightly dimwitted, so let me put it in the whole context. "May" and "shall" applies to all the subsections. That is why I am arguing it in this light. You misbehave in office, at what extent of misbehaviour in office will the discretion kick in to terminate the appointment? We would have expected that these words would have been defined in the Act and then we would have had some clarity.

They are giving the President the option in subsection (2)(f), if the person on the Integrity Commission is absent from three or more consecutive meetings without approval under subsection (1)(b). In all situations, even in the local government situation and the county council, if you did not attend three consecutive meetings without approval, your seat is deemed to have been vacated. You have a member of the commission of enquiry who does not have the discipline to attend meetings and does not have the courtesy to obtain approval and you are giving the President discretion to leave him there?

This part of the legislation, I think, is the only part that the persons who advocate a change from "shall" to "may" probably was looking at when they said that if that person is incapable, for whatever reason, of performing his duties and functions under the Act, that is so wide that, under the circumstances, maybe it can apply to (h). I am being fair.

2.00 p.m.

In those circumstances, I humbly submit that the President is human. It appears, in these circumstances, the President will not be acting on the advice of the Cabinet, but in his own opinion. If the President is acting in his own opinion, having regard to the history with the President acting in his own opinion—no, I should not be personal. Whenever the office holder of the Presidency is given that function, we should ensure that we know what are the parameters he will use in order to exercise that discretion.

He is looking for 36(1). "Before he sit down and read and follow yuh, he is looking for 36(1)!"

Mrs. Persad-Bissessar: Thank you very much. I want to support the position taken by the hon. Member for Princes Town North, when he talked about "shall" and "may", but I will come back to that. I am not in agreement. I do not support the amendment that the word "shall" be deleted and the word "may" be inserted. It is because of the following reasons: If it is that the President finds someone to be of unsound mind and incapable of carrying out his duties, why do you want to give him a discretion? Do you keep a person of unsound mind there? If it is that the person becomes bankrupt, as the Member for Princes Town North has said, do you want to keep him there? Why are you giving that discretion? We ask the Attorney General to answer that. Convicted of an offence, why are you giving him a discretion? It should be mandatory "shall". Guilty of misconduct, misbehaves, is absent or fails to carry out his—with (h) you "may" give him that discretion. Certainly for (a) to (g), I do not support that amendment from "shall" to "may".

On the point made by the Member for Princes Town North, the hon. Attorney General would know the recent Privy Council decision of Soneji, which dealt with the issue of "shall" and "may". Whilst the word itself—that Soneji decision was recently analyzed and construed in a local Caribbean matter in St. Kitts in a matter of Lindsey Grant and the Attorney General on the issue of whether the word "may" or "shall" would be mandatory. Whilst the old learning was that "may" or "shall", the form of the word in itself may point to a mandatory direction, the case law developing over time has said that it is now to be read and construed within the meaning of the entire statute.

Integrity In Public Life (Amdt.) Bill
[MRS. PERSAD-BISSESSAR]

Thursday, January 07, 2010

There is where the Privy Council gave what is known as a Soneji test. The word itself, with due respect, from reading Soneji, would seem to say whilst "may" would seem to point to a discretionary function on the part of the official, it is not necessarily a discretionary function. The test would have to be, as I say, a holistic approach in construing the statute.

I am not convinced by the reason given by the Attorney General that we should remove "shall" and put "may". In his winding up, I ask him to tell us why it is necessary, where you have very strong grounds for terminating an appointment that you want to give, what he is saying, a discretionary function. I do not support this amendment.

Mr. Maharaj SC: Mr. Speaker, I am happy to join this debate and I am happy that the first sitting of the Parliament in 2010, is dealing with the issue of integrity in public office. May I, with your leave, wish all the Members of the House and the national community the best for the new year. [*Interruption*]

Mr. Manning: Ramnath too?

Mr. Maharaj SC: Everyone. I do not understand why it is in legislation dealing with the promotion of integrity, we should have the President being given a discretion to keep a member of the commission if that member of the commission is of unsound mind and incapable of carrying out his duties. As a matter of fact, that would be promoting a lack of respect for the principles of integrity in public office. I do not understand, on what basis, a President, whichever President, of Trinidad and Tobago can have a discretion to keep a member of an integrity commission if the person has become bankrupt and if the person is convicted of a criminal offence. I cannot understand it. This is especially so, where it also says that the President would have the discretion to keep that member of the commission if he is guilty of misconduct in relation to his duties.

If we have a member of the Integrity Commission, who is totally misconducting himself on the commission and totally disregarding his duty, then the President would have a discretion to keep that member. If a member of UDeCott's board is before the Integrity Commission and on the Integrity Commission there are members who are totally disregarding their functions and who can be regarded of unsound mind and do not assess the situation properly, he would be giving perverse decisions. According to this amendment, the President would be given the power, in law, for that member of the commission to remain there.

I know the argument, but before I go to the argument about "may" and "shall", we have to deal with the question of where you have integrity in public life

legislation. The whole object of the legislation is to promote integrity in public life and also where you have a section which deals with the removal of members of the commission, because the members of the Integrity Commission are the persons who are supposed to be upholding the principles, values and objects of the legislation. Therefore, where you have a session which deals with the removal of members of the commission, that section must be such that looking at the law, the President would have a mandatory duty to ensure that members of the commission who do not perform their functions and are guilty of criminal offences, are removed from office. We are having a situation here, where by virtue of the amendment, in which a member of the Integrity Commission who misbehaves in office can still remain as a member of the commission, if the President believes he should remain.

We have a situation where, if a member of the Integrity Commission who is supposed to set examples, be a role model and is able to show the country the values of integrity in public office, absents himself or herself from three or more consecutive meetings without approval can still remain in office and if he fails to carry out the duties and functions conferred on the member by the Act, he can still remain in office.

“...is incapable for whatever reason, of performing his duties and functions under the Act.”

He can still remain in office.

I want to ask a question, I know the Prime Minister is here. Is this amendment geared for Calder Hart to protect him? [*Interruption*] But, Calder Hart and all members of statutory boards are supposed to make declarations. They can be before the Integrity Commission. If the Commission does not carry out—

Mr. Speaker: I think this amendment is dealing with the commissioners.

Mr. Maharaj SC: Yes, but if the commissioners—

Mr. Manning: I wanted to ask the hon. Member whether he is suggesting that Mr. Calder Hart is now a member of the Integrity Commission. Is that what you are suggesting?

Mr. Maharaj SC: No, no.

Mr. Speaker: So, what is the relevance then?

Mr. Maharaj SC: If a member like Calder Hart is before the Integrity Commission; if an issue relating to him is before the Integrity Commission and the Commission is not performing its duties in relation to that office; is misbehaving in office in relation to

Integrity In Public Life (Amdt.) Bill
[MR. MAHARAJ SC]

Thursday, January 07, 2010

that complaint; or is guilty of misconduct in relation to that complaint—that is the point I am making. I am not saying that Calder Hart is a member of the commission. I know the Prime Minister can do a lot of things, but I do not know that he would want to do that; to put Calder Hart on the Integrity Commission. If a member of the Commission is incapable, for whatever reason, of performing his duties and functions under the Act, why give to the President a discretion?

Mr. Speaker, I was about to say your lordship, but you would know that in law, there are occasions in which the word "may" can have the interpretation of the word "shall" of being mandatory, but that would not apply here, in my respectful view, because we have a situation in which the Parliament had "shall" and now we are changing it from "shall" to "may". If the court ever has to interpret this, on the basis of the case of *Pepper v Hart* the court would look at the *Hansard* to see what was the intention of the Parliament. Therefore, we have a situation in which this Bill was passed by this House with the word "shall" and now we are deliberately changing it to "may", if the amendments succeed. Therefore, there can be no argument that "may" here would mean "shall". If we approve this amendment the "may" would be discretionary for the President.

Therefore, in my respectful view, I would ask the Attorney General and the Government to reconsider this amendment. I do not know what is the full rationale for this. I would ask them to reconsider this, because what they are going to do at a time when the country is saying that integrity in institutions is collapsing; institutions in respect of everything are under stress because of the lack of integrity.

I ask the Government to reconsider this because it is sending a wrong signal to the country. If the Government is prepared to give to a President—one cannot take away from the fact that this is being done at a time in which there has been no integrity commission appointed, the circumstances under which it has not been appointed and that an appointment was made and we could not go ahead with it. If it is that the Government wants to send a strong signal, not only for an integrity commission to have the powers and duties to give it teeth and for it not to be a dragon without fire, but a dragon with fire, if I may use that expression, it must also give the power and mandatory duties so that the President himself, whoever he or she is, would know that he or she has to act if the members of the Integrity Commission misbehave and do not perform their duties.

I am much obliged.

Mr. Imbert: Thank you, Mr. Speaker. In debating these amendments, as you know, I am tempted to refer to my Standing Orders and to appeal to you as the

Presiding Officer to apply the rules, with respect to the relevance, flexibility and adventures to which Members may go. We are simply debating the difference between "may" and "shall"; not all of these things you are talking about.

In listening to the combined Opposition—I am so sorry I have to be saying this after my learned friend from Tabaquite; this is not really intended entirely for my hon. colleague from Tabaquite—I was reminded of Act 5, Scene 5 from Macbeth.

Mr. S. Panday: Mr. Speaker, 36(1).

Mr. Speaker: Before I can rule, I am not very familiar with Act 5, Scene 5, so I have to hear it first.

Mr. S. Panday: Not this Act.

Mr. Imbert: For those of you Philistines “who doh no”, on that side. In Act 5, Scene 5, from Macbeth, it spoke about a tale full of sound and fury, signifying nothing. Having listened to the sound and fury of the Members for Princes Town North, Siparia and now Tabaquite, everything they have said signifies nothing.

2.15 p.m.

Now, let me explain why. The hon. Member for Tabaquite was the Attorney General who railroaded through the Integrity in Public Life Act, Chap. 22:01 in 2000 and in that Act that you bullied us into agreeing to, in clause 8, which is the Act that we are seeking to amend today by way of this amendment, the following words appear which were not caused by any recommendation coming from anybody who is on this side. The following words were always in the legislation piloted in this House by the Member for Tabaquite and they read as follows, clause 8(2):

“A member of the Commission may be removed from office by the President acting in his discretion...”

Mr. Maharaj SC: That was wrong.

Mr. Imbert: That was wrong, hold on.

“A member of the Commission may be removed from office by the President acting in his discretion for inability to discharge the functions of his office whether arising from infirmity of mind or body or any other cause, or for misbehaviour.”

So that former Attorney General is the one that put "may" into this legislation, "shall" is not there now, Member for Tabaquite. [*Interruption*] But you put "may" in the legislation.

Integrity In Public Life (Amdt.) Bill
[HON. C. IMBERT]

Thursday, January 07, 2010

Mr. Speaker, I had to sit there and hear him carry on and talk about *Pepper v Hart*, and the courts would apply the rules of statutory interpretation and they would see that we used to have "shall" and we now put in "may"—[*Mr. R. L. Maharaj SC stands*] No, no, sit. [*Laughter*] The legislation does not have “shall” in it, it has "may".

Mr. Maharaj SC: Let me say something "nah"?

Mr. Imbert: You are totally wrong. Thank you, Mr. Speaker.

Dr. Gopeesingh: It was on that point I was going to raise the issue. It seems as though this is a Government that its policies are by "vaps", because it seems to be flip-flop.

As the Minister indicated, the amendment to the amendment, the original Bill, section 8 had:

“A member of the Commission may be removed from office...”

Then the Government amended it to put "shall" and now they are amending it back to say "may"—

Mr. Imbert: It still is not law.

Dr. Gopeesingh: It is a flip-flop situation, their policies seem to be haywire, so what is it they really want to do? The original Bill was "may", they changed it to "shall" and they are bringing it back to "may" now and you can give no satisfactory explanation for it. [*Interruption*]

As my two colleagues indicated which—I mean in the medical profession I am not a psychiatrist, but you really believe that somebody sitting as a commissioner on the Integrity Commission and is to be of unsound mind—

Mrs. Persad-Bissessar: The man is crazy.

Dr. Gopeesingh:—in other words, the man is crazy. The man or woman is crazy and the President would leave that crazy person on that commission to sit and determine things that are coming before the Integrity Commission so—

Mrs. Persad-Bissessar: That is madness.

Dr. Gopeesingh: I mean, to have a mad man on an Integrity Commission and the President has the prerogative whether to leave him or not may remove him, as my colleague said, that is madness and we definitely cannot support that. It shows the flip-flop of the Government's policy and they cannot give a logical explanation of why they are changing this from "may" to "shall" to me.

Mr. Jeremie SC: Mr. Speaker, I will just read the existing 8(2) in the parent statute. This is the existing law, Chap 22:01, 8(2), it provides as follows and I quote:

“A member of the Commission may be removed from office by the President acting in his discretion for inability to discharge the functions of his office whether arising from infirmity of mind or body or any other cause, or for misbehaviour.”

That is the current law. What the Government seeks to do this afternoon is to elaborate on that, so we introduced a new clause which particularizes on what is meant by infirmity of mind or body or any other clause. So we speak particularly to where the member is found to be of unsound mind and is incapable of carrying out his duties, becomes bankrupt or compounds with his creditors, is convicted of any offence which brings his office into disrepute. We particularized on the type of misconduct and we have given the President a discretion of power to remove persons from office similar to the discretion which he has in the existing law, save and except that we have extended and particularized on the circumstances.

Mr. Speaker, the President is going to behave—we have to assume—in a reasonable fashion and he will, if someone falls within certain of these categories, exercise his discretion—[*Mr. R. L. Maharaj SC stands*] the amendment is before the House, I beg to move.

Mr. Maharaj SC: I wonder if the Attorney General would give way before he takes his seat?

Mr. Speaker: You are slightly late.

Hon. Members, the question is that this House agree with the Senate in the amendment to clause 4.

Question put and agreed to.

Clause 6.

Senate amendment read as follows:

Delete the proposed sub-paragraph (a) and substitute the following new sub-paragraph:

- (a) in subsection (1), by inserting after the word "liabilities" the words "that exceed ten thousand dollars in value."; and

Mr. Jeremie SC: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the amendment to clause 6 of the Integrity in Public Life (Amdt.) Bill, 2009.

Integrity In Public Life (Amdt.) Bill
[SEN. THE HON. J. JEREMIE SC]

Thursday, January 07, 2010

The section is intended to more effectively provide for the requirement that a declaration be made in respect of income, assets and liabilities of the value of ten thousand dollars and above. We sought to capture the *de minimus* amount which would not attract the attention of the Integrity Commission.

I beg to move.

Question proposed.

Mr. S. Panday: Thank you very much, Mr. Speaker. It says here:

“Delete...

- (a) in subsection (1), by inserting after the word “liabilities” the words “that exceed ten thousand dollars...”

I wonder how the hon. Attorney General could come to such a conclusion, because if one takes a holistic view of the law one should go back to Act No. 83 of 2000 which says in section 11—what we are doing here by clause 6, this amendment, although it says:

“Delete the proposed sub-paragraph (a) and substitute the following new sub-paragraph:”

We are really relating back to section 11 of Act No. 83 of 2000, and we must read the legislation across the board and see what new area the hon. Attorney General wishes to capture.

I read from Act No. 83 of 2000, section 11 which states:

“A person shall, within three months of becoming a person in public life, complete and file with the Commission in the prescribed form, a declaration of his income, assets and liabilities in respect of the previous year and, thereafter, on 31st May in each succeeding year...”

In the amendment of 2009 now, when one looks at that one would see in section 6 in which we are trying to delete, it says:

“Section 11 of the Act is amended—

- (a) by inserting after subsection (1), the following subsection:

‘(1A) A person shall not be required to include in the declaration, income, assets or liabilities, the value of which, respectively, do not exceed ten thousand dollars.’”

What we are asked in this honourable House to do here today is to delete subparagraph (a) which I have just read and which deals with new subsection (1A), which speaks about, if your assets and liabilities do not exceed ten thousand dollars then you do not have to put it in declaration. In the new subsection (1A), it says here, by inserting after the words "liabilities" "that exceed ten thousand dollars in value". Let us take that amendment now, stick it into Act No. 83 because we are deleting the section from the 2009 legislation. So let us read it now in Act No. 83 of 2000:

“A person shall, within three months of becoming a person in public life, complete and file with the Commission in the prescribed form, a declaration of his income, assets and liabilities...”

that exceed ten thousand dollars in value.

Mr. Imbert: It is the same thing.

Mr. S. Panday: It is the same thing, so therefore what are we fooling the public for? This is the point I was raising. [*Interruption*] No, this is the point I was making, how could the hon. Attorney General say we are trying to capture a wider area.

Hon. Member: He never said that.

Mr. S. Panday: What he said?

Mr. Jeremie SC: I did not say that. I just said that we are giving the Integrity Commission more power to do important work, so we fix an amount which we consider to be the *de minimus*, ten thousand dollars, and they look at declarations in respect of assets, liabilities and income which would be more than that.

Mr. S. Panday: Hon. Attorney General, what I am saying is this has been captured in the 2009 Bill by section 6(1A), so there is no need to delete this and insert this. It is the same thing, we are capturing nothing further.

Mr. Jeremie SC: Mr. Speaker, I beg to move that the amendment be considered.

Question put and agreed to.

Clause 8.

Senate amendment read as follows:

Delete the proposed subsection (5).

Mr. Jeremie SC: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment to clause 8 of the Integrity in Public Life (Amdt.) Bill 2009.

Integrity In Public Life (Amdt.) Bill
[SEN. THE HON. J. JEREMIE SC]

Thursday, January 07, 2010

We do not consider that it is desirable for a declaration to be deemed to have been fully made merely because a declarant has not received a certificate of compliance after a certain period of time, and I dare any of my friends on the other side to object to this amendment.

Question proposed.

Mr. S. Panday: Mr. Speaker, thank you very much. Clause 8:

“Section 13 of the Act is amended by inserting after subsection (3) the following subsections:”

That is what the amendment in 2009 Bill indicated. The Attorney General is daring us here today to vote against this, why did your Government and you introduced it in the Bill earlier last year? Why did you introduce it? Are you flip-flopping?

When you brought this on the last occasion we agreed with it, and if you look at the *Hansard* of all the persons, it says:

“The Commission may not...

Section 13 of the Act is amended by inserting after subsection (3), the following subsection.”

This was introduced in the integrity legislation, and that came after subsection (3) in section 13 of Act 83 of 2000. We ask the question, the Attorney General ought to tell us what was the thinking of the Government when the Government introduced this into the legislation after section 4 which says:

“The Commission may not make a request under subsection (1) or a requirement under subsection (2) where the sum...is less than ten thousand dollars...”

That relates about the ten thousand dollars where up to ten thousand dollars you do not have to declare assets or liabilities up to ten thousand dollars to the Integrity Commission.

2.30 p.m.

This is the one, Mr. Speaker, which we had all agreed to in this honourable House before it went to the other place. It says:

“(5) Where a declarant has filed a declaration required by this Act and—

- (a) the Commission has not requested from the declarant any information or explanation in accordance with subsection (1);...

What is subsection (1), Mr. Speaker?

May I guide you, Mr. Speaker? When I speak of subsection (1), I speak about subsection (1) in section 13(1) of the Integrity in Public Life Act 83 of 2000. So we will read them together to see how it makes sense.

Mr. Speaker, all the intelligent Members on the other side are trying to listen because all of us will be affected by this, and there is a certain person who just intends to disrupt the House. It is the most incompetent Minister we have.

Mr. Maharaj SC: Man, make your contribution. Ignore him.

Mr. S. Panday: Sure. Thank you. I would ignore him. Thank you.

Mr. Speaker, hear what is the obligation under section 13.

"The Commission shall examine every declaration that is filed"—the Commission—"and ensure that it complies with the requirements of the Act..."

Mr. Speaker, I feel disrespectful to turn my back from you when I am talking to you.

"and may request from the declarant, any information or explanation relevant to a declaration made by him and which would assist in its examination."

So what it does, the law as it stands, puts an onus upon the Commission to be efficient. It does. It says:

"The Commission shall examine every declaration that is filed and"—shall—"ensure that it complies with the requirements..."

So it is putting the onus upon the Commission to perform—[*Interruption*]

Mr. Imbert: So leave it in?

Mr. S. Panday: "of the Act and may request from the declarant any information or explanation relevant to declaration."

So what it is saying, the law is saying that the Commission shall ensure that the person in public life comply with the law, and in so doing, ask that person for information and explanation relevant to the declaration. Nothing is wrong with that. What is happening, when the amendment came in 2009 which was passed in the House, after that subsection (3) we introduced subsection (4) which says—and this now is easing the burden on the person in public life. In subsection (5) which we are trying to delete today, it says:

"Where a declarant has filed a declaration, required by this Act"—as per section 13(1) of Act 83 of 2000—"and—

- (a) the Commission has not requested from the declarant any information or explanation in accordance with Subsection (1); or

Integrity In Public Life (Amdt.) Bill
[MR. S. PANDAY]

Thursday, January 07, 2010

(b) the Commission has not made a request under subsection (2)...”

What is subsection (2), Mr. Speaker? Lets us read them together.

The Commission may require that—

“(a) a declarant furnish such particulars relating to his financial affairs as may be considered necessary,”

It says also:

“(b) a declarant or his duly appointed agent attend at the offices of the Commission in order to verify...”

So they have that power to even summon you to the Integrity Commission office to question you. It says:

“(c) a declaration be certified by a chartered...accountant.”

That is in terms of your declaration.

Mr. Speaker, if after all that power that we have given the Commission to act on the declaration of the person in public life, it says:

“the Commission has not made a request under subsection (2)”—which we just read—“and, a certificate of compliance has not been forwarded to him within eighteen months after the day on which the declaration was filed, the declaration shall be deemed to have been fully made.”

So what it is saying, if we have given them so much power under section 13(1) to act and the law forces the Integrity Commission to act, they say, look, if they did not act, if they were incompetent, if they were inefficient, the person in public life must not suffer for that. If after eighteen months they have not asked you for any information, they have not summoned you, it says, then we shall deem that the declaration has been fully made.

What we are trying to do—Mr. Speaker, before that. In law, as the hon. Members who are engaged in law, summary offences, sometimes if somebody commits an offence you have six months in which to bring the action, but under this it is eighteen months. If in eighteen months they have not asked you for anything, probably your papers would have been misplaced, why do you put that extra burden on persons in public life? The Commission has all the powers, why are we putting this extra burden? In those circumstances, it would seem to me that the argument which was made in order, or the thinking, or the rationale which was introduced in this, is that if the Commission goes through your documents, six months passed, nothing; a year passed,

nothing; well then it is deemed to have been properly filed after eighteen months. That means, that the Commission may be inefficient, but the Member or the person in public life must not pay as a result, or must not suffer any adverse consequences as a result of the incompetence or deficiency in the Integrity Commission.

The consequences, Mr. Speaker, of breach of integrity in public life legislation is so severe and so grave, that we must be careful that we are not putting persons in public life at such a disadvantage that they may come later on like Gordon Deane and try to snatch you by your neck and try to break your neck.

Thank you, Mr. Speaker.

Mr. Speaker: The Member for Caroni East.

Dr. Gopeesingh: Mr. Speaker, what this amendment to the amendment is seeking to do as my colleague indicated a while ago, it states that if you have furnished information to the Integrity Commission and the Integrity Commission has not responded to you—you filed everything that they wanted— In the original section 13 which had subsections (1), (2) and (3), you added subsections (4) and (5), and (5) indicated that if after eighteen months the Integrity Commission had not given you a certificate of compliance after you have filed all your declarations, it means now that they can come five or eight years after, when the PNM government may want to put their own people in the Integrity Commission—therefore, that should have been sorted out within eighteen months—and hound you down for things that the previous Integrity Commission would have seen that are regularly filed and compliant. They can now come and ask you to resubmit something after eight or 10 years.

By removing this subsection and removing the issue of within eighteen months if the Integrity Commission has been satisfied, close the matter. If after eighteen months the declarations were filed and the Integrity Commission did not respond, it means that they were satisfied. If after eighteen months they were satisfied, they should by right give you the certificate of compliance. What that is now seeking to do, this amendment to that amendment, is to remove that certificate of compliance after eighteen months, and therefore, allowing it to go ad infinitum at any stage, five years, eight years, 10 years, where a new Integrity Commission can call you in for something that you did eight or 10 years ago. That is not the law of justice, Mr. Speaker. This is a punitive piece of legislation for all public officers. After eighteen months, all public officers working in any public office in this country should feel satisfied and comfortable.

I have filed my declaration and the Integrity Commission is satisfied, I therefore get a certificate of compliance after eighteen months. If they do not get

Integrity In Public Life (Amdt.) Bill
[DR. GOPEESINGH]

Thursday, January 07, 2010

that certificate of compliance after eighteen months as this amendment to the amendment is seeking to do, it leaves that public official in a state of quandary. Can this Integrity Commission come at any time, five or eight years or 10 years later and question me again, and try to prosecute me? So this is an untenable piece of legislation. It is a serious piece of amendment to amendment which allows the public official to be at the mercy of any government coming after any incumbent government, to be able to hound down people who would have filed their declaration properly. Therefore, we cannot accept that. This must be left in the legislation, so that after eighteen months if the official has filed and the Integrity Commission has not responded, that official should be given the certificate of compliance and not allow it to run indefinitely.

This is unacceptable, Mr. Speaker.

Mr. Speaker: Member for Diego Martin North/East.

Mr. Imbert: Thank you, Mr. Speaker. This debate is taking a certain road where it is obvious that hon. Members opposite are not doing their homework. You are not doing your research. Mr. Speaker, through you, the hon. Members opposite do not understand what they are saying. In the present law there is no requirement for the Integrity Commission to furnish a certificate of compliance in any period of time. That law was passed by your Government. So that the UNC government did not want the Integrity Commission to put a time limit on the furnishing of a certificate of compliance.

Mr. S. Panday: But you did?

Mr. Imbert: When we brought this amendment Bill to this House, they objected to every single clause in the amendment Bill—*[Interruption]*

Mr. S. Panday: No!

Mr. Speaker: Order!

Mr. Imbert:—including this one.

Mr. S. Panday: No!

Mr. Imbert: Mr. Speaker, it is difficult to sit here and listen to Members opposite pretend that they are not aware of what is in the current Integrity in Public Life Act.

Mr. S. Panday: We agree with this.

Mr. Imbert: There is no time limit in the current Integrity in Public Life Act.

Thank you, Mr. Speaker.

Mr. S. Panday: We agree with this.

Mr. Speaker: Order!

Mrs. Persad-Bissessar: Mr. Speaker, the hon. Member is saying it is difficult to understand what we are saying. I find it very difficult to understand what the hon. Member is saying. If we are to believe him, if we take this logic down to the end, then we should keep everything that is in the existing law. That is why we are in the Parliament, to make amendments to improve the law, and you came here with a Bill that we passed in the Parliament. You keep going back to the existing—*[Interruption]*

Mr. S. Panday: But we agreed.

Mrs. Persad-Bissessar: Hon. Speaker, the Government came with an amendment—*[Interruption]*

Mr. Imbert: Which you objected.

Mr. Speaker: Order!

Mrs. Persad-Bissessar: Would you please— Hon. Speaker, through you, Government came with an amendment to the parent law and that was approved in this House. *[Interruption]*

Mr. Imbert: Not by you.

Mrs. Persad-Bissessar: The hon. Member comes now to tell us, we must go back to what is in the existing law. Why? He is saying it is because that was the UNC position, and is seeking to say, well, it is good because it was the UNC position. There is absolutely no logic in what the Member is saying. I am pointing out, if we are to listen to him and if we are to believe that he believes what he is saying, we should change nothing in this Parliament. We should keep every law that was on the statute books that the UNC passed; every line of that existing law. No! If it is then the law has been working from the 2000 Act to now, over time you have seen there are improvements to be made. That is why we sit in the Parliament. You brought your amendments which were passed with a majority by the Parliament. You have come back now as my colleagues are saying with the flip-flop, to reverse your own position, to say, "I am going back to the UNC position." Fair enough. But this provision that was put in there was a good provision. It was an improvement on what was there when the Parliament passed this Act in 2000. This section is an improvement.

Mr. Imbert: I never said that.

Mrs. Persad-Bissessar: This clause is an improvement, now you are seeking to take it out. I will tell you why. Mr. Speaker, in everything in law, there is what you say, you must bring finality. You cannot have issues and continue ad infinitum, and so you have what are called periods of limitation in everything. That is a standard in the law, that you must bring closure to acts and events in terms of limitation periods.

So if you have to deal with land, you have a limitation period. I see the Member for Pointe-a-Pierre nodding her head, because if you are doing a running down action, you have a limitation period. If you have to bring action before the police and so on, with this, you have a limitation period. That is what this has done. It has improved the 2000 law by saying, okay now, we will have a limitation period that you cannot come sometime in the future—documents may be lost, files may be lost and so on—that the person has filed his declaration, the Commission was given this 18-month period.

2.45 p.m.

If you are saying that the commission is going to be inefficient and incompetent and cannot complete the task in 18 months, then you may want to extend that period. But I do believe that you need to keep the limitation period. It is in keeping with what is happening with respect to law, generally. If you are now coming to take it out, there is no need to say take it out or keep it then; it was passed in the Parliament. It was brought as part of this Government's policy. I am not agreeing, and my colleagues are saying that they are not agreeing, that you remove this by way of this amendment.

I thank you, Mr. Speaker.

Mr. Maharaj SC: Mr. Speaker, I do not think it was a plausible response for the hon. Member for Diego Martin North/East to say that because it was not in the existing law, that was the position of the Government. We are dealing with an amendment bill. When a law is being amended, it is recognized that the existing law needs changing, it needs reforming, because law is never static. You have to have reform, from time to time, to improve upon the legislation.

By the Government coming with this amendment Bill, it must mean that it has recognized and acknowledged that there was need for change, for reform of the law. The Government came to this Parliament and the Parliament agreed. Even if people objected, the Parliament agreed to the measure which went to the Senate. The existing law, we have to remember, was agreed by both the Opposition and the Government; the existing law required a special majority. The *Hansard* would show that the Government of the day took on board what the Opposition wanted.

It may be that this was not seen at the time, but it is not because a law had errors or provisions which were probably not workable—but we have seen that the law worked and, therefore, what is wrong must be put right.

Our duty today is to ensure that what we are passing, what we are agreeing to, would give the best law for attaining the objectives of the Act. [*Interruption*]

Mr. Imbert: I thank the hon. Member for giving way. I do not mean to disrupt you at all.

When we brought this clause, hon. Members opposite objected on the grounds that there should be no limitation, which is what happened six months or a year ago. When we brought this saying that we wanted to limit it to 18 months, hon. Members you said no, that there should be no limitation. Now you are coming and saying that there should be a limitation? [*Interruption*]

Mr. Maharaj SC: Assuming, but not admitting, that what the hon. Member said was correct, it is still not a reason for the Government to say, "Well, we are not taking it on board." We are in a Parliament and the duty of the Parliament is to make laws for the peace, order and good governance of Trinidad and Tobago. It has happened from time to time. People on that side, people on this side, may have looked at things differently; may not have seen how it operated fully.

I am not admitting that we did that, but even if we did, I think the Government should consider the merits of the suggestion. There could be politics and saying, "You were this and you were that; this was the existing law," and so forth, but our duty today is to get the best law, regardless of whatever errors or whatever wrong.

If the hon. Members in the Opposition who spoke before me are saying that there should be a time frame, we have to examine what is the objection for having a time frame. If the Attorney General could convince us that there is a plausible objection, we should consider and determine it.

If there is an objection to a limitation period, we would consider it and determine it, but I cannot see a rational objection to having a limitation period. I think that is the issue here. I request that the Government does not consider what we did on this side or what the existing law was. I request that they look at the merit, because we have many laws which the PNM passed over a period of time and had to be reformed. So there would be many laws and parts of laws that the UNC passed, which would have to be changed, from time to time, because the law must be amended to meet changing circumstances. That is the crux of law reform.

I am much obliged, Mr. Speaker.

Mr. Jeremie SC: Mr. Speaker, I am amazed that you have persons taking a particular position today. The Member for Oropouche just whispered to me, across the way, that yesterday was yesterday and today is today. They took a particular position, the Government listened, made the change, and now they argue against the position that we have come to.

Mr. Speaker, we agree with them that this amendment ought not do have been made and we now move to strike it.

Mr. Speaker, I beg to move.

Question put and agreed to.

Clause 10.

Senate amendment read as follows:

Delete clause 10.

Mr. Jeremie SC: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment, for the reason that we think now that it is undesirable for an offender not to be prosecuted after a period of time to an offence under the Act.

Mr. S. Panday: [*Laughter*]

Mr. Jeremie SC: It is consistent with some statements made by the Privy Council in appeal No. 53 of 2007, in respect of which the judgment was delivered on November 03, 2008.

I dare Members on the other side to speak against this amendment.

Mr. Speaker: You may speak after I propose the question.

[*Mr. S. Panday stands*]

Mr. Speaker: I have not proposed the question yet. [*Laughter*]

Mr. S. Panday: I apologize, Mr. Speaker.

Question proposed.

Mr. S. Panday: This shows the state of confusion in the mind of the Government. In the clause before, they took away the limitation period and in this one they introduced limitation period. That is what is called "flip-flop".

We are speaking about deleting clause 10. In order to understand what is going on and for other Members here, what does clause 10 say? Clause 10 says:

“Section 21 of the Act is amended by repealing subsection (5) and substituting the following subsection:”

I am speaking from the Integrity in Public Life (Amdt.) Bill, 2009.

“No prosecution for an offence under this Act, other than an offence under section 20(5) shall be instituted—

- (a) without a written consent of the Director of Public Prosecutions (DPP); or
- (b) after five years from the date when the person in respect of whose declaration of financial affairs the alleged offence was committed, ceased to be a person in public life.”

What the Government intends to do today is to delete that section.

Before I go on, hon. Attorney General, we agree with (5) that no prosecution for an offence under this Act, other than the offence under section 20(5), be instituted without the consent of the DPP.

Mr. Jeremie SC: That is in the law already.

Mr. Imbert: It is in law already.

Mr. S. Panday: Hold on; we agree with that. We agree to it to the extent that if we did not have this and we did not have an independent office of the DPP, the Member for Diego Martin West could have been in jail today. When you could have manipulated the Integrity Commission—remember Mr. Gordon Deane, how he was hounding down the Member for Diego Martin West?

Mr. Jeremie SC: By doing what?

Mr. S. Panday: By sending a file to the DPP without any substantial allegations. If Gordon Deane and the Integrity Commission had their way, they would have instituted proceedings against anybody who they felt was opposed to the PNM. That is why we are saying that we agree with the section here, no prosecution should be commenced without the written consent of the DPP.

When we say today that we are repealing subsection (5), we are not repealing subsection (5) in Act 83 of 2000. We are repealing subsection (5) in Act 88 of

Integrity In Public Life (Amdt.) Bill
[MR. S. PANDAY]

Thursday, January 07, 2010

2000, because soon after Act 83 was passed, there was an amendment to it, but the amendment to the Integrity in Public Life Act, No. 88 of 2000, which was assented to on November 02, 2000. That Act says:

“No prosecution of an offence under this Act, other than an offence under section 20(5), may be instituted without the written consent of the Director of Public Prosecutions.”

That is what we are repealing. When we repeal section 21(5) of Act 88 of 1987, the question I would like to ask is: Act No. 83 speaks about no prosecution of an offence under the Act—*[Interruption]*

Mr. Imbert: Mr. Speaker, Standing Order 36(1), he is not speaking to the amendment.

Mr. S. Panday: That is the amendment.

Mr. Imbert: The amendment deletes it.

Mr. Speaker: No; with due respect, continue.

Mr. S. Panday: Mr. Speaker, what was the amendment in 2009? There were two limits to it: one the DPP and the five-year period. Today we are amending that by deleting clause 10, and clause 10 is really section 21(5).

We are really repealing section (5) when we delete 10. Clause 10 was speaking about two areas: the DPP and the five-year period. When we delete clause 10, we are really repealing section 21(5) of No. 88. The question is: In (5) of No. 83, that whole section was repealed. If that whole section was repealed, the question now is whether section (5)(b) of the 1983 Act would be preserved. That is the argument; it would not be preserved.

Mr. Jeremie SC: All we are seeking to do is to delete clause 10 of the 2009 Bill. If you do that, you leave the law as it stands. That is 22:01, which at present provides in 21(5) as follows:

“No prosecution of an offence under this Act other than an offence under section 20(5), may be instituted—

without the written consent of:

(a) the Director of Public Prosecutions;”

That stays in; that is all that is there.

Mr. S. Panday: Well then your argument falls down when you say that you are putting a limitation to bringing prosecution against somebody in public life five years after they have demitted office. How do you take care of that issue?

Mr. Jeremie SC: We have taken that out by deleting clause 10. Clause 10 would have deleted subsection (5) and replaced it with what is, in effect, (5) plus the limitation period. So we are now withdrawing 10. If you withdraw 10, what you are left with is in the Act, 22:01, as it stands in 21(5).

3.00 p.m.

Mr. S. Panday: Mr. Speaker, we object to that. When the United National Congress passed the legislation in Act 83 of 2000 it said that no prosecution of an offence under this Act other than an offence under section 20(5) may be instituted after five years from the date when the person in respect of whose declaration of financial affairs the alleged offence was committed ceased to be a person in public life.

That is the point we are making. We are disagreeing with the deleting of this clause and we are agreeing with the Bill of 2009 where the Government said that after five years it will not bring prosecution against somebody who has left public life.

We asked the Attorney General what was the rationale in the Bill of 2009 for including that after five years after a person in public life demits office, you will not bring action against him. If that is left open, it means a person may demit office 20 or 25 years and you are going to prosecute him after that time. That cannot be fair, you must have closure to the matter and that is why the UNC had put into legislation that after five years we shall not come against somebody.

Mr. Speaker: You are misreading the thing. You are not finished, are you?

Mr. S. Panday: I am saying that the amendment in the Integrity in Public Life (Amdt.) Bill, 2009, we agree with those amendments but disagree with clause 10 as it is now. The argument I am making is that five years is sufficient time to prosecute somebody and after five years, it is unfair to bring prosecution against persons for something which may or may not have been committed while they were in public life.

Dr. Gopeesingh: Mr. Speaker, the simple issue here is the amendment Bill 2009 had under clause 10 to delete subsection (5) of section 21 and that reads:

No prosecution of an offence under this Act other than an offence under section 20(5) may be instituted without the written consent of the Director of Public Prosecutions.

Integrity In Public Life (Amdt.) Bill
[DR. GOPEESINGH]

Thursday, January 07, 2010

So the Government came with the amendment bill in 2009 and deleted that section and replaced it with the amendment Bill 2009 by clause 10. Now it is seeking to remove clause 10. Therefore, they have removed clause 5 by the amendment Bill of 2009.

Mr. Jeremie SC: No, this is a Bill, not an Act; one is a Bill and one is an Act.

Dr. Gopeesingh: So you are leaving the Director of Public Prosecutions in?

Mr. Jeremie SC: Yes.

Dr. Gopeesingh: My colleague has also indicated that we should also have; after five years from the date when the person in respect of whose declaration of financial affairs the alleged offence was committed ceased to—that part should be left in.

We do not agree with the complete removal of clause 10 in the Bill but the (b) section should remain in it.

Mr. Jeremie SC: Mr. Speaker, I am confused, because when my friends on the other side amended the Act in 2000, they took out the limitation period of five years. That was done expressly and the Privy Council is on record as saying this about that action in respect of the 2000 Act.

All of this strongly suggests that Parliament was concerned to strengthen this legislation designed as it is to combat the scourge of corruption in public life in Trinidad and Tobago, rather than weaken it by introducing a substantially shorter limitation period for prosecution and it is unsurprising to note as recorded by Bereaux J at paragraph 30 of his judgment, the Attorney General, my friend from Tabaquite, during the Senate debate on the amendment Bill as saying a number of things.

All that we are doing is carrying us back to the position as it was in 2000.

So with those words, I beg to move.

Question put and agreed to.

Clause 12.

Senate amendment read as follows:

Delete clause 12 and substitute the following new clause:

Section 34 amended 12 Section 34 of the Act is amended by renumbering subsection (5) as subsection (7), deleting

subsections (3) and (4) and substituting therefore the following new subsections:

- “(3) Where a person fails or refuses to disclose any information or to produce any documents required under subsection (2), the Commission may apply to the High Court for an order to require the person to comply with the request.
- (4) A person who refuses to comply with an order of the Court commits an offence and is liable to a fine of one hundred and fifty thousand dollars and to imprisonment for three years.
- (5) A person who knowingly—
 - (a) makes or causes to be made a false complaint to the Commission; or
 - (b) misleads the Commission or an investigating officer by giving false information or making false statements or accusations, commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for five years.
- (6) Where during the course of an investigation, the Commission is satisfied that there are insufficient grounds for continuing the investigation or that the complaint is frivolous, vexatious or not made in good faith, it may terminate the investigation.”

Mr. Jeremie SC: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

Mr. Speaker, there has been a great deal of criticism of the amendments that were originally sought to be made by clause 12. It was felt that these amendments

Integrity In Public Life (Amdt.) Bill
[MR. JEREMIE SC]

Thursday, January 07, 2010

placed impediments on the part of a complainant; it was also felt that the effect of the amendments would be to discourage complainants.

The amendment agreed to in the other place was therefore to give the Commission via the High Court the opportunity to obtain information that was not forthcoming and to take out the old provisions with respect to complaints. And again, I dare my friends on the other side to speak against this.

Question proposed.

Mr. S. Panday: Mr. Speaker, I do not know if the hon. Attorney General is daring us because he knows today is the last sitting and he could jab and run.

We agree with that amendment—

Mr. Jeremie SC: No.

Mr. S. Panday: Yes. Mr. Speaker, in order for members of the public to understand what is happening, in the amendment of 2009—

Mr. Jeremie SC: If you agree, just say you agree.

Mr. S. Panday: No, the public must know the work we have done in this Parliament. The legislation in 2009 said if you want to make a complaint against anyone it must be on oath and all of us on this side argued that was wrong and this Government bulldozed its way in the Lower House and formed the part of the Bill that went upstairs.

Mr. Speaker, it would appear that good sense prevailed or they were pushed into a corner to remove that clause to say if you are going to make a complaint against someone you can merely do it in writing. Do you remember, Mr. Speaker, that this Government said you can do something on oath and you could investigate the person?

One must take this against the backdrop of what the PNM was doing at the time. Whenever the PNM does anything, one must take it, not with a pinch of salt but with a tablespoon of salt. When they brought this legislation in 2009, at the same time they were bringing amendments to amend the Criminal Procedure Act to amend the criminal proceedings where they said if a witness does not want to come to court, they could use a written statement or a statement of a witness in evidence against someone.

So this legislation was being passed in collaboration with other pieces of legislation in the criminal law and one asks the question, what was the motive? Indeed, the motive was to deal with anybody who they thought was opposed to the PNM. As I said, whenever the PNM does something, look at everything it does

and you will see what is the sting in the tail. This Government is one which cannot be trusted and that is why the hon. Attorney General said if I agree, say so and sit down.

We have to make the population aware that when this PNM passes legislation it may appear to be innocuous but when you look at the whole picture, this Government is a devious and dictatorial one.

Mr. Jeremie SC: Who me?

Mr. S. Panday: No, not you. Mr. Attorney General, whenever I speak or indicate to you, I do not mean you personally, and if you view it in that light I want to apologize to you.

Mr. Speaker, the Bill which came to the House in 2009, as I said, they have now removed that and gone back to the situation where we can now have persons merely making representation in writing to the Commission.

If one looks at the legislation also, one would see the amendment before us today does not deal with section 32 of Part V so, therefore, we assume that Part V stays in the law as amended by Act 88 of 2003 which increases the penalty from \$150,000 to \$250,000.

Mr. Speaker, today in the House it does not affect section 33 either where the Commission may on its own initiative or shall upon the complaint of any member of the public consider and enquire into any alleged breaches of the Act, or any allegations of corruption or dishonest conduct. It does not affect that.

However, in the amendment before us today it says:

Delete clause 12 and substitute the following new clause. And section 34 of the Act is amended by renumbering subsection (5) as subsection (7) and deleting subsections (3) and (4) and substituting thereof the following new subsections:

“(3) Where a person fails or refuses to disclose any information or to produce any documents required under subsection (2), the Commission may apply to the High Court for an order to require the person to comply with the request.”

3.15 p.m.

The person who refuses to comply with the order is liable to a fine of \$150,000. Formerly, it says under section 34:

“In carrying out its functions the Commission may authorize the investigation officer to do certain things.”

Integrity In Public Life (Amdt.) Bill
[MR. S. PANDAY]

Thursday, January 07, 2010

We see nothing wrong in this situation where, if the person in public life is being recalcitrant, that the commission has the power to go to the court and request the court to take certain sanctions against that person. We see nothing wrong in that and we support that.

Also, we wish to further state that that person who fails to indicate to the population; that that person who fails to comply with the requirement of the High Court could also be guilty of contempt of court. So this subsection, we are in agreement with it.

It goes on later to say:

“(5) A person who—

- (a) (knowingly) makes or causes to be made a false complaint...or
- (b) misleads the Commission or an investigating officer by giving false information or making false statements or accusations,...

could be convicted. Again, we agree with that in that we are putting legislation here today—persons making vexatious, frivolous and malicious accusations against a person. So we agree to that.

We also agree with this clause which says at clause 6:

“Where during the course of an investigation, the Commission is satisfied that there are sufficient grounds for continuing investigation or that the complaint is frivolous, vexatious or not made in good faith, it may terminate the investigation.”

We want to say we agree with that, in that what happens, one, it will prevent persons from being persecuted by malicious persons and, two—

Mr. Imbert: What are you talking about? Which one are you on?

Mr. Jeremie SC: Subclause (5)?

Mr. S. Panday: No, I am on subclause (6) now. We say it prevents persons from making frivolous, vexatious and malicious allegations against persons in public life, because there are persons who may hate you or may have something against you and set you up and make allegations against you for nothing. That is why we are happy that we have that penalty.

Also, more importantly in subclause (6) where it says, if the commission investigates, they do not want to pull someone before the commission, the person in public life, but could say, "Look, you see, we got this information; we received

this information; we did our investigations and we would not even bother to call the person in public life to account because we have found this to be so." In those circumstances, we support this legislation.

Maybe as the lawyer, you will know in the Legal Profession Act, once a complaint, Attorney General, is made against you, whether it is vexatious, frivolous or malicious, they have to go through the process; lay the complaint, put the attorney before the disciplinary committee and a full trial has to take place and at the end of the day we would have wasted everybody's time. This was the situation in the integrity legislation prior to this and in those circumstances, having regard to all the circumstances, hon. Prime Minister, we agree with this amendment.

Mr. Jeremie SC: Mr. Speaker, I was shocked at that, but I beg to move.

Question put and agreed to.

Clause 13.

Senate amendment read as follows:

Delete clause 13 and substitute the following new clause:

- “New section 34A 13. Insert after section 34 the following new section:
- 34A.(1) The Commission may, on receipt of a complaint and after examining same, reject the complaint if the Commission is of the opinion that the complaint—
- (a) is frivolous or vexatious;
 - (b) was not made in good faith;
 - (c) is devoid of sufficient grounds for an investigation; or
 - (d) is not supported by evidence of probative value.
- (2) Where the Commission has rejected a complaint it shall—
- (a) inform the complainant in writing of the decision within fourteen days of the date the decision was made; and
 - (b) provide the complainant with the reasons for its decision.

Mr. Jeremie SC: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the amendment to clause 13 of the Integrity in Public Life (Amdt.) Bill, 2009.

This amendment is made to empower the commission to deal with frivolous and vexatious complaints and following on the support given by the Member for Princes Town North, in respect of the previous amendment, that is subclause (6), I expect that his support would be forthcoming here.

I beg to move.

Question proposed.

Dr. Gopeesingh: There is one word in this entire amendment to the amendment which gives us some concern in terms of the requirement for elucidation, and that is the word "probative". I have been advised by attorneys that even high court judges have difficulty in interpreting what is probative. In other words, if I want to make a complaint against an individual and send that complaint to the Integrity Commission, what necessary requirements and documents do I need to give to the Integrity Commission for it to be considered probative? Therefore, it requires some further degree of elucidation, because what I may consider probative and send information to the Integrity Commission, we understand that even High Court judges vary in their interpretation as far as this is concerned.

Therefore, if you are going to penalize somebody for supplying what they would have considered to be enough information and they are thought to be vexatious and frivolous, then that person could be in trouble. So what may be probative for one judge may not be probative to another judge and may or may not be probative to the person supplying the information to the Integrity Commission.

We would like to have some clarification and elucidation on what "probative" really construes.

Mr. Jeremie SC: Mr. Speaker, I was surprised that my friend, the hon. Member for Caroni East, spoke about High Court judges having a difficulty with "probative" because it is in the dictionary and I think that all of them have a Concise Oxford dictionary. It says: "probative means affording proof or evidential."

Mr. Speaker, I beg to move.

Question put and agreed to.

Clause 14.

Senate amendment read as follows:

Delete clause 14 and substitute the following new clause:

“Section 39 amended 14. No personal liability shall be attached to any member of the Commission in the discharge of functions of the Commission under this Act unless it is shown that the member acted recklessly or in bad faith.”

Mr. Jeremie SC: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the amendment to clause 14 of the Integrity in Public Life (Amdt.) Bill, 2009.

This amendment is designed to promote high standards of governance in the affairs of the commission so it would authorize an action against a member of the commission for action which is taken recklessly or done in bad faith.

Question proposed.

Question put and agreed to.

Clause 16.

Senate amendment read as follows:

Delete clause 16.

Mr. Jeremie SC: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the amendment to clause 16 of the Integrity in Public Life (Amdt.) Bill, 2009. This clause is no longer relevant because of the amendment to clause 12.

Question proposed.

Question put and agreed to.

Clause 17.

Senate amendment read as follows:

Delete clause 17.

Mr. Jeremie SC: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the amendment to clause 17 of the

Integrity In Public Life (Amdt.) Bill
[MR. JEREMIE SC]

Thursday, January 07, 2010

Integrity in Public Life (Amdt.) Bill 2009. The statutory declaration is deleted because of the amendment to clause 12.

Question proposed.

Question put and agreed to.

PRISON (AMDT.) RULES
Senate Amendment

The Minister of State and Minister in the Ministry of National Security (Hon. Donna Cox): Mr. Speaker, I beg to move the following Motion:

Be it resolved that the Senate amendment to the Prison (Amdt.) Rules, 2009 listed in Appendix IV of the Supplemental Order Paper, be considered.

Question proposed.

Question put and agreed to.

Rule 3.

Senate amendment read as follows:

<u>Rule</u>	<u>Extent of Amendments</u>
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3	Insert the following as new paragraph (b):
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Delete the words "Commissioner, or the Deputy Commissioner, or a Prison Superintendent" and substitute the words "Prison Supervisor or any other office of a higher rank".

Miss. Cox: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the amendment to Rule 3 of the Prison (Amdt.) Rules, 2009.

Question proposed.

Question put and agreed to.

3.30 p.m.

Mr. Speaker: Hon. Members, earlier in the sitting, the Minister of Legal Affairs had indicated to me that he would like to make a personal statement. The statement was not quite ready at the appropriate time. I have given him leave to make the statement now. I now call on the Minister of Legal Affairs.

STATEMENT BY MINISTER
Particular State of Affairs
(Reference to)

The Minister of Legal Affairs (Hon. Peter Taylor): Mr. Speaker, during the course of my contribution to the Property Tax Bill on Monday, December 21, 2009, in this honourable House, I made reference to a particular state of affairs in this country, where many property owners and, more specifically, business owners may have been paying incorrect and peppercorn property taxes for several years. In the course of my statement I said:

“The new tax regime must reflect in all fairness the values that people's properties have now been elevated to. There is nothing onerous and unfair about that. Persons have been living off the fat of the land for too long and have become comfortable.”

Following therefore, was a negative perception that my statement was aimed at all property owners in Trinidad and Tobago. A reasonable interpretation of that phrase is that some persons were enjoying a way of life that was grossly disproportionate to the contribution being made by them to the country's development. I wish to state categorically, that it was never my intention to disregard the contributions made by the vast majority of the well-meaning citizens of Trinidad and Tobago. I further wish to state that my remarks were grossly misunderstood and taken out of context. Rather, my remarks were intended to highlight the vast inequities that have existed in the old property tax system.

It is in this context and it is against this background, that I wish to reiterate the fact that my remarks were never, and I repeat, never intended for the general populace and especially not the average homeowners who have worked hard to build their homes and service their mortgages every month to secure their investments in their homes and for their families.

As Minister with responsibility for consumer affairs, I would always champion any cause that seeks to defend the rights of all consumers, [*Desk thumping*] particularly, the poor and the needy. I did it with high food prices and now, I do it with this new progressive and, consequently, more equitable property tax. It is simply not right for the taxes payable under the old law to fall disproportionately on lower income taxpayers.

Thank you. [*Desk thumping*]

Adjournment

Thursday, January 07, 2010

ADJOURNMENT

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, I beg to move that this House do now adjourn to a date to be fixed.

I wish to announce that today Cabinet approved the prorogation of Parliament, tomorrow at midnight.

I also inform hon. Members opposite so that they can advise their spouses or significant others, that Parliament will recommence on Wednesday January 13, 2010 at 10.00 a.m. and it would be a ceremonial opening of Parliament. This is the reason I am telling you now. I am advised, and the Speaker, I am sure, will let you know that you would get your invitations by hand. Just to give you advance notice so that you could advise, as I said, those persons you might wish to accompany you at 10.00 a.m. on Wednesday January 13, 2010.

Mr. S. Panday: Mr. Speaker, on a point of order. I had raised a motion under Standing Order 12.

Mr. Speaker: You are pre-empting the Minister.

Hon. C. Imbert: I forgot to say something. It is my fervent wish when we recommence that all factions on the opposite side would be speaking to each other once again.

Mrs. Persad-Bissessar: All factions on your side, Diego Martin West.

Mr. Speaker: You are enquiring about a matter to be raised on the adjournment, are you not?

Mr. S. Panday: No, Mr. Speaker. I had raised it and the Minister has refused to come to this House to answer.

Mr. Speaker: We have passed that.

Mr. S. Panday: Passed that, Mr. Speaker?

Mr. Speaker: Yes. We do have some matters and we are not dealing with that.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 3.36 p.m.