

PRESIDENT:

Freundel J. Stuart, QC, MP

VICE PRESIDENTS:

1st Richard L. Sealy, BSc, MBA, MP

2nd Ronald Jones BA, (Hons) MA, JP, MP.

3rd John D. Boyce C. Eng. MP

4th Verla Depeiza LLM (Mer) BSc. (Hons)

GENERAL SECRETARY:

George Pilgrim, B.A., MSc.

ASSISTANT SECRETARY:

Andre R. Worrell, BA. (Hons)

TREASURER:

Sandra O. Forde, MSc. FCMI

August 24, 2018

Clerk of Parliament
Parliament
Parliament Buildings
Bridgetown
Barbados, W.I.

Dear Sir,

Integrity in Public Life Bill, 2018

Thank you for your letter of August 16, 2018 and which requires our response by August 24, 2018. Owing to the short time for our reply, we provide this as our immediate response but we reserve the right to respond further or to otherwise address this issue.

We direct your attention to the following issues:

- Section 20 provides for the appointment of an ad hoc panel to hear and adjudicate complaints about the conduct of an investigative officer. Paragraph (b) of that section provides for the Commissioner of Police to sit as an ex officio member of that panel. Given the onerous regular duties of the Commissioner of Police, this would be an impractical additional task to attach to that officer. If the role of the police is regarded as central to such a panel, the provision should allow for the Commissioner or his nominee.
- The Bill provides no recourse for public officials who have suffered at the hands of malicious actors.
- Sections 29 and 30 seem to give an active executive role to the Governor General. The Governor General usually sits above the arena, remaining independent of Executive

“celebrating 50 years of Independence... from Colony to Nationhood”

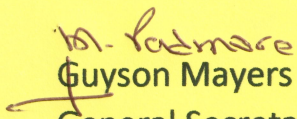
actions until called upon to give effect to decisions, usually acting on the advice of the Executive. The function of an inquiring officer is inconsistent with the role of the Governor General.

- Section 36 provides penalties for breaches of the requirement to make declarations. Such breaches are treated as minor offences triable at the level of the Magistrates Court. The maximum penalty prescribed is \$15,000.00. This is not a dissuasive penalty.
- The same observation is made with respect to section 43 in relation to registrable interests.
- Section 47 provides that a person convicted of making a false or incomplete declaration of failing to comply with the direction of the Commission or the Governor General, as the case may be, shall be subject to a fine which shall not be less than the gift involved in the commission of the offence. This is treated as no more than a summary matter confined to the realm of the magistracy. The issue here is that the jurisdiction of the Magistrate is limited and, therefore, this court may not have the capacity to impose a fine that is not less than an expensive gift.
- Section 48 seems overtly designed to protect persons who may have engaged in corrupt activities prior to 2008. This seems to reflect an unhealthy political bias.
- The penalty provision, section 54, proposes a maximum penalty of \$20,000 for an act of corruption. Where there is a case of significant corruption, this would not be a meaning or dissuasive penalty.
- Section 57(3) sets out what penalty shall be imposed by a court in a case of unaccounted for property or resources. This seems to be a usurpation of the role of the judiciary and may be unconstitutional.
- Section 59 provides protection from malicious allegations. No protection is offered where it may be established that the original motivation of the Commission, independent of a complaint, was malicious. Further, the penalty of \$20,000.00 is not dissuasive.
- Section 68 provides protection for whistle blowers who are public officials. However, subsection (3) withdraws that protection where the person commits an offence by making the disclosure. Public officers are required to make oaths of secrecy when they assume certain offices. Further, the Official Secrets Act may apply to officers. It is likely that a

public officer may have to act in contravention of another Act in order to make a disclosure as contemplated by this Bill.

- There is no protection from prosecution for private individuals who offer evidence of wrongdoing against a specified person in public life or another public official to which the informer was party.

Yours sincerely


Guyson Mayers
General Secretary