INTEGRITY SYMPOSIUM 1993

Hosted By

THE INTEGRITY COMMISSION

of the

REPUBLIC OF TRINIDAD AND TOBAGO

WHITHER

INTEGRITY

LEGISLATION
WHITHER INTEGRITY LEGISLATION?

A Symposium held by

The Integrity Commission
of the Republic of Trinidad and Tobago

Central Bank Building
Port of Spain, Trinidad

September 1 - 3, 1993
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WHITHER INTEGRITY LEGISLATION

Integrity Commission of the Republic of Trinidad and Tobago
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THE QUESTION OF INTEGRITY LEGISLATION is a relatively new one, although questions of Integrity in public affairs are as old as man’s activity in public affairs. In Britain, a modern example of rules established for the monitoring of norms of public conduct is the Churchill Ministerial Code (1952) (See Part 111) among other such codes. These serve as conventions which bind persons entering into public life, but while they undoubtedly have a restraining influence on members, they do not have the force of law.

In the English speaking Caribbean, the first country to enact integrity legislation was Jamaica, when the "Parliament (Integrity of Members) Act, 1973" was passed. A scrutiny of this enactment will show that the Trinidad and Tobago Integrity in Public Life Act of 1987 bears so many points of resemblance as to lead to the conclusion that it must have been inspired by this earlier Act. Basically, therefore, the position in Jamaica is similar to that of Trinidad and Tobago, where the principal activity of the Commission lies in the receipt and monitoring of Returns of the income and assets of “persons in public life”.

In the United States of America, there followed the “Watergate Scandal”, the "Ethics in Government Act of 1978", which is legislation that embraced all arms of the Federal Government in its judicial, Legislative and Executive functions, and went beyond the mere monitoring of the income and assets of the persons under its purview, to establish standards of ethical conduct enforceable by law, and under procedures for the monitoring and control of such standards. Separate and distinct from the ethical standards, there was enacted a criminal code to embrace all aspects of corruption, but enforceable under the normal law enforcement agencies.

Furthermore, there are some 194 Ethics Commissions throughout the United States and Canada which have been established within recent decades in the various States and Provinces with similar powers both for the monitoring of income, assets and liabilities of the persons under their purview as well as for the control of ethical standards under the provision established by law. An example of these commissions is the Canadian Conflict of Interests Act of 1988 which came
into being about the same time as the Trinidad Integrity in Public Life Act of 1987, except that in the former enactment, it was, like the United States legislation, structured to exercise disciplinary control over the ethical behaviour of persons in public life in respect, principally of conflict of interests, and allied matters.

It is to be noted that in all these enactments, the activity of ethics commissions was directed to the new breed of offences against ethical standards, while the detection and prosecution of criminal offences were left with the established law enforcement agencies.

From available information, the list of countries in the English-speaking Caribbean which have integrity legislation in any form is as follows:

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In contradistinction to this pattern of integrity legislation there are the following Hong Kong enactments:

- Corrupt and Illegal Practices Ordinance
- Independent Commission against Corruption Ordinance
- Prevention of Bribery Ordinance
- Legislative Council Standing Orders

The cumulative effect of these enactments has been to create a virtual Crime Commission which functions under the authority of the Independent Commission Against Corruption in all aspects of corruption, whether it be criminal or ethical, so that the entire operation of law enforcement in this sphere of activity is vested in this Commission:-
"The Independent Commission Against Corruption in Hong Kong is a mammoth organisation empowered to investigate any complaints of corrupt practices and to arrest without warrant any person who is reasonably suspected of being guilty of an offence under the Prevention of Bribery Ordinance, the Corrupt and Illegal Practices Ordinance, or the ordinance under which it was established, the Independent Commission Against Corruption Ordinance, or being a Crown servant, is guilty of an offence of blackmail committed by or through the misuse of office."


The Integrity Commission of Trinidad & Tobago has taken the stand that while there are many features of the Hong Kong legislation that are worthy of emulation so far as concerns the powers of investigation into corrupt practices, yet there does not seem to be any justification for the removal of the powers of investigation and prosecution of criminal offences out of the hands of the established law enforcement agencies. What this Commission has recommended, instead, is that there should be an enlargement of the scope of the existing integrity legislation to embrace questions as to ethical behaviour of persons in public life according to the North American pattern.

It must be recognized that the establishment of such legislation in any country calls for the greatest courage and dedication on the part of parliamentarians, because in effect, the legislature would be undertaking the task of monitoring the behaviour of its own members; and the invidious task of pronouncing on such behaviour would be placed in the hands of independent persons outside of parliament on whose integrity and impartiality Parliament and members of the public must perforce rely.

The way in which our Commission has expressed it, is that it would stand as a compact between those who offer themselves for public service and the electorate whom they represent, as to the standard of ethical behaviour which should guide and inform their public actions.

Our Commission is of the view therefore, that if this leap of faith could be taken, then it would necessarily have a cathartic effect in cleansing from the minds of the public the ill humours of public scandal that abound unchecked in our public life. Wrong-doing can be checked; and innocent persons can have their names cleared of wrong-doing.
We are conscious of the fact that there are those who doubt the efficacy of this legislation in having any impact upon corruption, and to those we say that it would be a matter of surprise indeed if such negative views were not held, given the relative newness of this concept. To this we would add that we are in the fortunate position of having as our guide the other nations of the world where such measures have already been tried, and with whom, hopefully, we would be able to share our own experiences in time to come.

Our Commission is of the view, however, that from the many and varied expressions of opinion from the cross-section of the citizens who participated in this Seminar, there can be elicited a resounding clamour for the establishment of such legislation.

It only remains finally, to acknowledge the debt of the Commission to the many persons who made this Symposium possible, beginning with His Excellency, Mr. Noor Hassanali, our President, who graced the Opening Ceremony with his presence and declared the Symposium open, our Prime Minister, the Honourable Patrick Manning, without whose support, this operation could not have taken place; and the Honourable Minister of Finance, Mr. Wendell Mottley, who participated in one of the discussion sessions.

We wish to thank also the Leader of the Opposition, the Honourable Mr. Basdeo Panday for lending his support, though regretfully, he was called away on another engagement, and so could not attend. Valuable contributions, however, were given by the Honourable John Humphrey at the Opening Ceremony, and Senator Wade Mark in two of the Sessions, while Senator Surendranath Capildeo and former Attorney General, Mr. Anthony Smart contributed in one Session. Independent Senator Martin Daly also gave his strong contribution and Senator Diana Mahabir-Wyatt participated as moderator at one of the panel discussions.

A feature throughout the Symposium was the sterling contribution made by the Honourable Gregory Evans, the current Commissioner on Conflict of Interests for the Province of Ontario in Canada, whose comments can be found throughout the Symposium. We are grateful to him for his generous support.
Our Report would show the names of many other distinguished persons who participated in this exercise, prominent among whom were - from our local community - His Grace the Archbishop, the Most Reverend Anthony Pantin; our former President of the Republic, Sir Ellis Clarke; the Honourable Mr. Justice Cecil Kelsick, one of our former Chief Justices; our former Ombudsman, the Honourable Mr. Justice Evan Rees; and other eminent ladies and gentlemen, who took time off from their normal schedule to make their contributions.

Making their contributions from our Regional Community were, representing the CARICOM Secretariat, Mr. Brynmor Pollard, former Chief Parliamentary Counsel, Guyana, and representing the OECS Secretariat, former Puisne Judge of the West Indies Associated States, the Honourable Justice John B. Renwick. To both these persons we extend our grateful thanks.

Finally, there is the Task Force who smoothed the way for the efficient running of the Symposium. In the vanguard were our Secretary, Ms. Angela Brathwaite and the staff of the Integrity Commission assisted by staff of the Public Relations Division of the Ministry of Trade and Industry; the Government Printery; the Ministry of Foreign Affairs; and the Information Division, Organisation and Management Division, and Verbatim Reporters Section of the Office of the Prime Minister. To these and all other helpers we pay tribute. To the media, who were very cooperative and helpful by their coverage of the Symposium and by displaying to the public, the interest which there should be in this important topic, we pay special tribute.

A special vote of thanks should go to the Principal and members of the Hugh Wooding Law School, who with the active leadership of Mr. Errol Matthews, the Senior Tutor and his staff of graduate students assisted us with the arduous task of compiling this Report.

George Collymore
Chairman, Integrity Commission of the Republic of Trinidad and Tobago
THE CONSTITUTIONAL PROVISIONS CREATING THE INTEGRITY COMMISSION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

138. (1) There shall be an Integrity Commission (in this section and in section 139 referred to as "the Commission") for Trinidad and Tobago consisting of such number of members, qualified and appointed in such manner and holding office upon such tenure as may be prescribed.

(2) The Commission shall be charged with the duty of -

(a) receiving, from time to time, declarations in writing of the assets, liabilities and income of members of the House of Representatives, Ministers of Government, Parliamentary Secretaries, Permanent Secretaries, and Chief Technical Officers;

(b) the supervision of all matters concerned therewith as may be prescribed.

139. Subject to this Constitution, Parliament may make provision for -

(a) the procedure in accordance with which the Commission is to perform its functions;

(b) conferring such powers on the Commission and imposing such duties on persons concerned as are necessary to enable the Commission to carry out effectively the purposes of Section 138.

(c) the proper custody of declarations and other documents delivered to the Commission;

(d) the maintenance of secrecy in respect of all information received by the Commission in the course of its duties with respect to the assets, liabilities and income of any member
of Parliament and any other person; and

(e) generally to give effect to the provisions of section 138.

THE INTEGRITY LEGISLATION OF TRINIDAD AND TOBAGO

Legislation implementing the provisions of Chapter 10 of the Constitution is contained in Act No. 8 of 1987, cited as the Integrity in Public Life Act, 1987 (see Part 111). The Act provides "for the establishment of an Integrity Commission for the purpose of receiving declarations as to the financial affairs of persons in public life and for matters incidental thereto".
THE APPOINTMENT, COMPOSITION AND MEMBERSHIP
OF THE INTEGRITY COMMISSION OF THE
REPUBLIC OF TRINIDAD AND TOBAGO

The President, acting in accordance with the advice of the Prime Minister and the Leader of the Opposition, in exercise of the power vested in him by section 4(3) of the Integrity in Public Life Act, 1987, appointed as the first Chairman and Members respectively of the Integrity Commission, for a period of three years, with effect from 1st January, 1988, the following persons:

The Hon. Mr. Justice George Collymore, retired Judge of the High Court - Chairman

Dr. George M. Sammy, H.B.M., Professor of Food Technology, University of the West Indies, St. Augustine - Deputy Chairman

Dr. J. O’Neil Lewis, C.M.T. retired Ambassador to Belgium, the E.E.C., Romania and Yugoslavia and the United States of America, the Organization of American States and Mexico - Member

Mr. John B.C. Martin, F.C.A., C.A., Chartered Accountant, Deputy Chairman, Furness Trinidad Group of Companies - Member

Mr. John V.M. Ottley, F.C.C.A., C.A. - Member

However, consequent upon the death of Dr. George M. Sammy on the 12th day of July 1988 the following appointments were made:

Dr. J. O’Neil Lewis - Deputy Chairman

Mr. Brian George des Vignes, Attorney-at-Law - Member

By the kind courtesy of the Honourable the Chief Justice, the Commission at present occupies offices in the Hall of Justice, Knox Street, Port of Spain, as a temporary measure.
SYMPOSIUM OVERVIEW

Responding to the hope expressed by His Excellency President Noor Hassanali, that participants would seek to identify aspects of Integrity not covered by current legislation, and would consider an outline of public education process designed to promote a national concept of Integrity that would emphasise the responsibility vested in persons in public life, persons attending the Symposium, hosted by the Integrity Commission from September 1 - 3, 1993 on the topic "WHITHER INTEGRITY LEGISLATION?", stressed in their three days of discussions the importance of extending the scope, and strengthening the applicability, of the existing legislative provisions.

In the Central Bank Auditorium in Port of Spain on the morning of September 1, before an audience that included the Honorable the Prime Minister, Her Excellency, Mrs. Hassanali, Members of Parliament, Members of the Diplomatic Corps and of the Public, President Hassanali had made his appeal in the course of formally declaring the Symposium open. Reminding the Nation that the people of Trinidad and Tobago were, by their Constitution, committed to 'respect for moral and spiritual values and the rule of law', His Excellency added: "we are, I submit, by necessary implication, committed to the constraints of Integrity".

Earlier in the Opening Ceremony, and following an introduction by the Honorable Mr. Justice George Collymore, Chairman of the Integrity Commission, the audience had heard the Feature Address given by the Honorable Gregory T. Evans, former Chief Justice of the Province of Ontario, and at present Commissioner, Conflict of Interest, of Toronto, Ontario. In welcoming Chief Justice Evans, Mr. Justice George Collymore noted that Ontario's Conflict of Interest Act had been enacted at about the same time as Trinidad and Tobago's Integrity Commission Act and contains provision for ethical control which is not in the Integrity Legislation.

Speaking of his role as Commissioner, Conflict of Interest, Justice Evans explained that Conflict of Interest Legislation was new to Ontario. His own jurisdiction was limited to a Legislative Assembly of 130 Members, their spouses, minor children, and private companies of which they had a controlling interest. The Conflict of Interest Act had been proclaimed on September 1, 1988; and he was the first Commissioner. Citing Section 2 of the Act, he explained that "a member has
a conflict of interest when the member makes a decision or participates in making a decision in the execution of his or her office and at the same time knows that in the making of the decision there is an opportunity to further his or her private interest. A conflict of interest arose, he said, when there were competing interests on the same issue or situation. It was a factual situation; and the violation arose when the member resolved the conflict in a manner which gave, or could give, a benefit to himself or to another, which was not in the public interest. A benefit was not solely an economic one.

Justice Evans concluded his address with a reference to the Trinidad and Tobago situation. "No legislation", he suggested, "should attempt to control the absolute right of the Prime Minister to impose certain restrictions on the Members of the Executive. They need not be the same for all Members, but should be tailored to meet the situation peculiar to that Member and his or her particular portfolio. Since such restrictions bind only the individual Cabinet member involved, they should not be made public".

To be a part of government, he stressed, is a real challenge: a chance to affect thought, to advance ideas, to perform. It provides an opportunity to innovate from inside the site of power, where power ideally can be transformed into reality. In short, it is a chance to do something for your fellow man, by making your community and your country a better place in which you, your children and your grandchildren may live and flourish.

Another speaker at the Opening Ceremony, the Hon. John Humphrey, a member of the Parliamentary Opposition, drew on his professional experience as an Architect to emphasize the importance of integrity in public life. If a beam did not have integrity he said, it would collapse when a load was put on it. As a result, the building would be damaged and would, possibly, injure human beings. If a structure were not designed with integrity, when the wind blew hard, the building might collapse. In recent times, one saw the devastation wrought by hurricane Andrew.

Applying the architectural analogy to the national economy, Mr. Humphrey argued that, for example, if a nation spent more or consumed more than it produced, it could not have economic integrity since it would have to borrow to make up the
difference. However, when a nation borrowed, future generations had to pay back; and the pressures that would be exerted on the society would be such that the lack of integrity of the economy would be just as devastating as the hurricane that passed through an area where the houses were not built with structural integrity.

Trinidad and Tobago, he claimed, was now paying the price of a lack of economic integrity; and the level of crimes, especially among the young people, with teenagers engaging in the most atrocious of crimes, senselessly - indicated that there was not enough "steel in the beam" and that it would collapse when the weight was put on it.

Mr. Humphrey concluded with the thought that the exercise that was commencing that morning was, perhaps, the most useful to be undertaken by the Integrity Commission. He wished well to the Commission, and to all those persons who had come to participate in the Symposium. He had to confess, however, that he did not have very much confidence that, to use the architectural example, there would be sufficient steel in the concrete to keep the beam as it was needed to be at this time in Trinidad and Tobago.

At the conclusion of the morning’s formal Opening proceedings, the Deputy Chairman of the Integrity Commission, Dr. J. O’Neil Lewis, on behalf of the Commission, extended an invitation, to all who had attended the Opening Ceremony, to participate in the Discussion Sessions that were commencing that afternoon, and that would continue daily for the rest of the working week, at Level 16 of the Central Bank Building.

In the Discussion Sessions that followed the formal Opening, the Symposium considered a variety of relevant topics involving questions of Integrity, Ethics, Morality and Accountability in Public Affairs, in the Public Service, in Business and in the Media.

A recurring theme throughout the Panel Discussions was the importance of Public recognition and acceptance of Integrity in all aspects of national life. Since that recognition and acceptance had not always been evident in the public life of
this Nation, it had seemed necessary to introduce legislative provisions to ensure a minimum observance, at least, of morality and ethical behaviour in everyday life. Those provisions had, however, proven inadequate in scope and application to bring about the desired standards of acceptable conduct. The Panel Discussions therefore provided an opportunity for persons in different walks of life to consider, and to recommend, what further measures appeared necessary in response to the Symposium’s theme “Whither Integrity Legislation?”
PART I

THE OPENING CEREMONY ADDRESSES
THE OPENING CEREMONY ADDRESSES

Mr. Justice George Collymore  
Chairman of the Integrity Commission of the Republic of Trinidad and Tobago  
WELCOMING ADDRESS

Hon. Gregory T. Evans, Q.C., B.A., LL.D., Ph.D., K.C.S.G.  
Commissioner, Conflict of Interest, Toronto, Canada  
FEATURE ADDRESS

Hon. John Humphrey  
Deputy Leader of the Parliamentary Opposition of the Republic of Trinidad and Tobago  
ADDRESS

His Excellency Mr. Noor Hassanali  
President of the Republic of Trinidad and Tobago  
OPENING ADDRESS
THE WELCOMING ADDRESS

George Collymore

May it please your Excellency, and Mrs. Hassanali, Honorable Prime Minister, the Honorable Patrick Manning, our Guest Speaker, the Honorable Gregory Evans, Honorable John Humphrey, member of the Opposition, Members of the Diplomatic Corps, Honourable Judges, other Distinguished Guests, Ladies and Gentlemen.

This is indeed an historic occasion, when we have to come together as members of the public, with parliamentarians to discuss the effectiveness of an Act of Parliament. His Excellency the President has graciously consented to open our Symposium, and we have invited the Honourable Gregory Evans, Commissioner on Conflict of Interest for the Province of Ontario, to deliver the feature address. The Honourable John Humphrey will then comment on behalf of the Opposition. We of the Integrity Commission think that the occasion fully justifies such a representation, for today the business on hand calls for the full consideration of Parliament, as well as of concerned citizens throughout the country.

We recognize the presence of our Prime Minister in our midst to whom we must give full credit for making this occasion possible. When we first approached him with our proposal for this Symposium he enthusiastically supported the idea, and it was he who opened doors for us so that we were able to mount this Symposium in its present lovely surroundings. He also ensured the active participation of members of his government in the business which lies ahead. We must also acknowledge the support of various Ministries of Government whose help for us was indispensable to the organization of this function. For this we then thank you, Sir.

We consider, Ladies and Gentlemen, that the subject matter of our deliberations within the next three days vitally concerns not only members of Parliament, but also all the citizens of this country, and may be of interest also to the wider community of our Caribbean neighbours, to whom we have extended our invitation to participate in our deliberations.

We recognize in our midst from overseas, Justice J.B. Renwick who is the Legal Adviser to the Organization of Eastern Caribbean States (OECS), and Mr. Bryn Pollard, Legal Adviser to CARICOM. Mr. Renwick is a distinguished member of the
Judicial and Legal Services of the Windward and Leeward Islands, and is a former Puisne Judge of the West Indies Associated States. Mr. Bryn Pollard is remembered as Parliamentary Counsel in the office of the Attorney General in Guyana. Both of these gentlemen are carded to participate in our seminar deliberations later on. To you, Sirs, we extend a very hearty welcome on behalf of the people of Trinidad and Tobago, and we hope that you will find your visit to this country to have been worthwhile.

The Integrity Commission of Trinidad and Tobago was sworn into office by the President in January of 1988; and I recall at the swearing in ceremony a newspaper reporter coming up to me afterwards, and asking with his tongue in his cheek whether this would not be just another commission. By that remark I understood that he merely re-echoed the cynicism that was popularly felt that the Integrity commission as enacted into law was a rather effete institution that would just go through the motions, and be completely irrelevant to the community so far as concerns any control over the behaviour of persons in public life. Indeed, in the spirited and controversial passage which this legislation had through Parliament, that view was very much in evidence in the speeches there, notably among the ranks of the Opposition members. It is of some significance to note that the party that was then in opposition has now formed the present Government.

My answer to that concerned questioner from the media was that so far as our Commission was concerned, we intended to do all in our power to ensure that our labours would be more than merely going through the formalities; and it has been with that resolve in mind, we have set about to see how best we could serve our community in this regard. Today we present the fruits of our labours.

When we looked at our terms of reference as reflected in the Integrity in Public Life Act, we were able to understand the full force of the criticisms that were levelled against this legislation, since this Act established what has been described as being merely the first step in the process of integrity control, albeit that it was, in our view, a necessary first step. That step consisted in brief in the receiving and monitoring of the income and assets of "Persons in Public Life" as narrowly defined in the Act, and basically our powers and duties stopped there, the rest of the Act being merely ancillary to those functions. We have been referred to, I think inaccurately (and unkindly) as a glorified filing system, but that criticism,
I think, misses the point. The receiving and monitoring of Returns is an important part of integrity control, as indeed, is reflected in every integrity legislation that we have examined from abroad, and provides an important safeguard in integrity control. Our labours in the past years have re-inforced us in this view.

However, we were persuaded that an Integrity Commission should be capable of doing more, and our research into integrity legislation in other countries has shown that a more positive role has been given to such commissions in other countries. We have seen in many countries around the world, a consistent pattern whereby legislative restrictions have been imposed upon the conduct of persons in public life so far as concerns standards of ethical behaviour; and these restrictions are monitored and controlled by independent commissions which are given the power to call to account those persons who are found to be in default of such standards. In our legislation there is no power in our Integrity Commission to exercise any such function.

In setting up this Symposium, therefore, what we did was to prepare a Memorandum in which we attempted to reflect some of those principles into a model of the kind of legislation which might be appropriate to us. We were ever mindful of the fact that one could never take the experience of another country and transfer it wholesale into our own, for to do that would be to overlook the special circumstances that apply to us and to no one else. Without trying to re-invent the wheel, therefore, we have borrowed principles and procedures that are now practised in some countries, and attempted to introduce them as a coherent whole into our system. How well we have succeeded in so doing is a matter on which the participants of this Symposium will pronounce in the ensuing days.

We have been at pains to make it clear that our Memorandum does not necessarily reflect the thinking of either the present or the past administration, but is rather the fruit of our experience and research, and serves no other purpose than to form a basis for the deliberations of this Symposium. I have no doubt that participants will go to the same sources we have examined, and come to their own conclusions: Our role at this Symposium, therefore, has been to pave the way for the discussions that will take place, and not to lay down the law.
We do not expound policy. Whether any legislation comes into being or not, and what would be the contents of any such legislation is a matter that only Parliament can determine, for Parliament is the supreme lawmaker, and the comments which we, in the Integrity Commission have been making from time to time on that legislation are no more than *obiter dicta*, which Parliament is at complete liberty to accept or to reject.

An Integrity Commission can be no more than the Servant of the Law, and while the law necessarily vests in the Commission a certain independence of action *vis a vis* persons under their purview, it must ever be borne in mind that the Commission is not their Master. The Law is supreme and an independent commission is its instrument. We have felt it incumbent upon us, however, because of our special experience of the subject to give our views on the matter; but the formulation of any policy on integrity is what we hope will come at the end of the deliberations of this Symposium.

It remains next for me to introduce to you the speaker who will give the feature address to this Symposium, the Honourable Mr. Gregory Evans, a former Chief Justice of the Province of Ontario in Canada, and the current Chairman of the Commission on Conflicts of Interest for Ontario.

What is note-worthy about the Conflict of Interest Act, Ontario is that it was enacted just about the same time of our Integrity Commission Act; and from the outset, there was established the principles of Ethical control by the Commission which we feel should be incorporated into the Integrity Legislation. When this legislation first came to our notice, we felt right away that this was the answer that everyone has been waiting on, and we set about to do more research into the subject.

To our surprise, we found that the legislators throughout the length and breadth of the United States, and Canada had established similar procedures in the fixed commissions, and furthermore that they had established a body known as the Council on Governmental Ethics Laws which meets annually in different parts of the United States and Canada, so as to share their experience in the workings of their commissions. I had the privilege of attending one such conference held in Toronto in September of 1992 and of the scores of Ethics Commissions they represented, I found myself to be the representative of the only Commission which was without any powers of monitoring breaches of ethical standards.
It is our hope, that following this Symposium, that matter will be put right.

So, we have now invited Justice Evans to join us in our Symposium so as to give us some of his experience as Commissioner since his assumption of office in 1988.
OPENING CEREMONY - FEATURE ADDRESS

Hon. Gregory T. Evans

The list of distinguished moderators and panel members who will participate in the various sessions guarantees the success of your symposium.

I am impressed by the interest shown by His Excellency, the President, the Prime Minister and other Government members in lending their support by their presence today.

Conflicts of interest are not confined to government, although the media have made them the most high profile. They exist throughout society wherever competing interest converge. All professions and many organizations have become alert to the problem and are rushing to provide codes of conduct and guidelines of behaviour. Standards of conduct which provided guidelines for professions are being reviewed and revised to meet the complexities of modern society and business.

A conflict of interest involves the questions of ethics. What is ethics?

The dictionary meaning of "ethics" in general terms is "a group of moral principles or set of values relating to human duty, or the rules of right conduct recognized in certain associations or in human society at large". (Webster's Dictionary).

Ethics in this sense means "standards of behaviour or ideals, accepted by a society or a profession, which involves questions of right and wrong".

Public officials at all levels, in the discharge of their responsibilities are required to take actions and make decisions which affect the lives of ordinary citizens in various ways.

They also control the use of financial and other natural resources provided by the taxpayer. It is the use, and specifically the misuse of those powers and resources which raise important questions of ethics.

Public Inquiries and Investigations in all jurisdictions disclose evidence of corruption, self-interest and improper conduct in the public service. The older conceptions of professionalism in the public service sector are under serious challenge. In addition to the problem of corruption there is no doubt that
the increasing complexity of our society creates unavoidable ethical problems requiring education, supervision and control by appropriate sanctions.

Persons elected to public office hold a privileged position in our respective societies and must accept ethical obligations as a fundamental part of their executive and parliamentary roles. Privilege without responsibility is foreign to our concept of democracy.

Effective Conflict of Interest Legislation enhances public confidence in our elected representatives and provides protection for their individual integrity and reputation.

There is a difference between "ethics" and what is required by law.

Corruption, such as bribery or theft, are criminal offences to be resolved by courts. Ethics questions are matters of judgment about competing interests and values and accordingly are matters upon which there may be disagreement, ambiguity or uncertainty.

Conflict of interest legislation is new to Ontario and my jurisdiction is limited to a Legislative Assembly of 130 members, their spouses, minor children and private companies of which they have a controlling interest. I also deal in a peripheral manner with their political and constituency staffs by giving advice which hopefully will protect their particular member from being embarrassed by the activities of some overly enthusiastic staff member.

The Members' Conflict of Interest Act was proclaimed on September 1, 1988 and I was appointed the first Commissioner. Prior to proclamation, a series of guidelines had been in force with varying degrees of success. I am not answerable to the Government but to the Legislature, as is the Ombudsman, Provincial Auditor, Chief Election Officer, Commission on Election Finances and the Information and Privacy Commissioner.

The purpose of the legislation is to restore and maintain public confidence in the integrity of our elected representatives to the Legislature. This high minded "motherhood" legislation is ineffective unless it embodies sensible sanctions which are rigorously enforced.
Recent developments in many jurisdictions have disclosed situations involving elected representatives which indicate a course of conduct by a few individuals which tends to bring our system of government into disrepute. The result of this misconduct is to cast suspicion unfairly upon others in government who are not involved. Some misconduct is the result of inattention or an honest error in judgment, while some conduct may amount to a breach of the **Legislative Assembly Act** or the **Criminal Code of Canada**.

In general, voluntary guidelines have not proved effective and while it may be impossible to legislate morality, effort must be made to provide a legislative framework to protect both the public and the legislators. The present legislation in Ontario is an attempt to balance the need to maintain high standards of ethical conduct in the public service without unduly inhibiting people in the private sector of outstanding ability or substantial assets seeking public office.

My primary duty is to render assistance to the members of the Legislature in outlining their obligations under the conflict legislation; assisting in the identification of areas of possible conflict and providing advice to prevent a conflict from developing or resolving it if it has occurred. I also investigate complaints made in conformity with the Act.

A secondary duty is an educational one. Members are required to give to the Commissioner complete information relative to their income, assets, financial interests and liabilities and also that of their spouses, minor children and private companies of which they have a controlling interest. This requirement is standard in almost all conflict of interest legislation. It assists the Commissioner in monitoring any substantial increase in assets when the disparity is grossly excessive in relation to disclosed income. It also provides information as to the member's creditors and debtors. Some of that information will subsequently be made public. The public disclosure obligation is an invasion of the right to personal privacy of the member and his immediate family. That important right and the competing considerations of public accountability and the public's interest in those who represent them in public office, must be kept in proper balance and perspective.

A high degree of confidentiality is absolutely necessary if the members are to respect the integrity of the Commissioner's office. Without mutual respect, the conflict of interest legislation cannot succeed.
The question of disclosure, and particularly public disclosure is a very sensitive issue which brings into focus the limit to which individual rights in a well-ordered democratic society may be properly restricted. I appreciate the problem and to the extent that the legislation allows me any discretion, I have exercised it in favour of protecting the right of privacy.

The basic objective of conflict of interest rules is to promote impartial decision-making in the public sector. When confronted with an issue of competing interests which must be resolved, the member should ask himself or herself the following question, "Am I satisfied that I am acting impartially and in the public interest?" If in doubt, don't do it!

Disclosure of assets and liabilities is not a complete solution to the conflict problem. Nor is it by itself an answer to public cynicism and suspicion. There are other measures which must be taken by elected officials to stem the tide of dissatisfaction. Lobbying, patronage, government waste, nepotism, and the circus performance in some Legislatures should be considered.

The Premier or the Prime Minister has the right to require an individual Cabinet Minister to divest himself of some particular asset or all assets if the member wants to be a member of the Cabinet. He may also establish a code of conduct for the members of the government caucus, but the code cannot be applied to all members without unanimous consent or legislative authority.

The main focus of any legislative code of ethics is to protect the integrity of the legislature and the democratic process. Legislators who use their office to zealously pursue the legislative goals of single interest groups with which they are associated may be distorting legislative decisions no less than those who accept benefits from special interest groups.

The task of advising on ethical principles which should govern the conduct of members of the Legislature or Parliament in the discharge of their duties is not a simple matter. The problem is how to resolve a conflict of values; how to strike a proper balance between respect for the member's right to privacy and the need to protect the legitimate interests of society.
The right to privacy provides for the deeply felt need of individuals to reveal to others only those aspects of their lives which they wish to reveal. It is a very significant aspect of human freedom and any invasion of that freedom must have clearly defined objectives and parameters.

Although everyone's privacy demands and deserves respect, legislators must sacrifice some of their privacy for the good of society, including the protection of the privacy of ordinary citizens. The priority of this principle of diminished privacy is based on the argument that the interest of the larger number of citizens takes precedence over those of a smaller number. But this reasoning does not justify a general exposure of a legislator's private life. It implies that private lives should become public only to the extent necessary to ensure democratic responsibility and accountability.

Sensitivity concerning personal privacy has understandably increased with the growth of the threat to it. Banking and other financial institutions, as well as various government agencies, are continually requiring information of a personal nature. Those subjected to conflict of interest legislation regard it as another invasion of privacy and restriction on personal freedom to which their fellow citizens are not subject. The principle of confidentiality, therefore, becomes of primary importance.

How can ethical behaviour of elected members of government be maintained and promoted? I believe that a mandatory continuing education program which includes political and constituency staff, coupled with a sensible and practical legislated code of conduct, is of paramount importance. Government must be prepared to enact legislation which is clear and unambiguous, which provides penalties for violations and which grants to the enforcement agency a discretion to disregard technical violations which do not undermine the spirit and purpose of the legislation. The ultimate goal would be the creation of a political culture in all branches of government which would be sensitive to conflict of interest situations and circumstances.
Scandals in Canadian political life are not a recent innovation. Ethical misbehaviour has existed at all levels of government, from the small municipality to big city administration, provincial governments and even the Senate and the House of Commons. The difference today is that the general public has become much less tolerant of unethical conduct by their elected representatives. The various governments are involved to an ever-increasing extent in the social and economic life of our citizens and this involvement has made the behaviour of politicians subject to greater public scrutiny. Political parties have come to appreciate that failure to curb unethical conduct by party members will have serious political consequences.

Ethics as a subject in our educational institutions seems to have been moved to the back burner. The concept of ethics is simple - is it right or is it wrong? - the practical application to everyday situations which arise in our complex world are not so easily identified. There is always that gray area in which some people habitually operate and which tends to obscure the line of demarcation between what is morally right and what is not.

It has been stated many times that political corruption is a world-wide problem and it, rather than differing political ideologies, is the reason for the overthrow of governments in Middle Europe, Africa and South America.

Some political scientists argue that there has been a change in our society and that political corruption is a reflection of that changing moral standard. They assert that in the last few decades there has been a loss of idealism and the defense that "everyone is doing it" is an adequate explanation for dereliction of political duty.

Whatever the cause of ethical misconduct and whatever history may reveal, there is a rising tide of public dissatisfaction which is forcing government, business and other organizations to assess and reflect upon the manner in which they operate and to adopt ethical guidelines and codes of conduct.

The vast majority of citizens who achieve political office are motivated by a sincere desire to contribute to the welfare of the general public and it is unfortunate and grossly unfair that the misconduct of a few, causes all members to be viewed with suspicion and cynicism. Those found guilty of serious ethical lapses demonstrate a lack of personal responsibility and integrity and are unfit to participate as an integral part of our legislative process.
Hon. Gregory T. Evans

The theory that full public disclosure by elected members of their assets, liabilities and financial interests and, if necessary, divestiture of all assets which might possibly create an appearance of potential conflict, is illogical and unworkable. It fails to appreciate that while such action may be attractive initially, more serious consideration quickly discloses that the number and quality of those seeking political office would be adversely affected. A balance must be struck between protecting the public interest and the protection of the member’s privacy. Members should not be expected to isolate themselves from the outside world and it can be anticipated that their public duties may on occasion affect their private interests. The solution is for the member to recognize the actual or potential conflict of interest situation and for legislation to provide procedures to resolve the problem in a manner consistent with the public interest.

The fact that there is an actual or apparent conflict is not the sole mischief which requires legislative control. It is willful blindness to a factual situation and a disregard of the public interest in favour of personal benefit to the member or to improperly benefit another person, association or group of individuals. Those who lack an acceptable standard of morality will not be deterred from illegal or improper activities except by sanctions that will remove them from public life.

The Premier of British Columbia, during an Inquiry into a business activity in which he was involved stated, “There is no conflict of interest if the public is unaware of the situation.” He later resigned when the Commissioner of the Inquiry did not share his rather unusual standard of political propriety.

The recommendations of the Sinclair Stevens Inquiry in Ontario involving a high profile member of the Federal Cabinet, were wide-reaching in scope and draconian in effect. The long-standing principle that a balance should be maintained between ministerial privacy and protection of the public interest was discarded. The so-called ‘sunshine’ principle of full public disclosure combined with divestiture of assets was recommended. The report extended the definition of a conflict of interest beyond the accepted “real” or “apparent” conflict standard to the vague and uncertain “appearance of a potential conflict.”
I personally do not believe in the "perceived" conflict theory. Legislators have enough difficulty avoiding real or potential conflicts without defending themselves against the mischievous or malevolent malcontents who view every action with suspicion.

Editorial writers and media spokespersons enthusiastically embraced all these restrictive recommendations in the belief that they represented a changed public attitude to political behaviour.

However, elected members and those who entertained an interest in achieving public office were appalled by the prospect that their financial affairs, in every detail, would be exposed to public view and that their anticipated actions in office would be open to the subjective assessment of a public which is generally uninformed and partisan. The fact that no Canadian legislature has to date adopted these recommendations confirms the opinion that their enactment into law would severely restrict the pool of potential candidates for political office.

Concern with ethics in government has usually been triggered by some well-publicized misconduct. The legislature then take steps to control the damage but disregards the underlying attitude which caused the misconduct to flourish. Ethical standards are not a recent invention. They are the product of moral values which have been long recognized and practised by a majority of people who share like beliefs and attitudes.

It is frequently asserted that present day politicians have less ethical sensitivity and not as much reverence for government as their predecessors. While the fact is that we have set standards of conduct much higher than those established in earlier years, there is no reason to suggest that the present problems of a few legislators indicate a moral decline among present day public officials.

Section 2 of the Members' Conflict of Interest Act in Ontario states:

"For the purposes of this Act, a member has a conflict of interest when the member makes a decision or participates in making a decision in the execution of his or her office and at the same time knows that in the making of the decision there is the opportunity to further his or her private interest."
That definition requires that the member making a decision or participating in
making one pertaining to his elected office and must know that in so doing there
is an opportunity to further his or her own private interest.

It is not the result, but the opportunity created which is the gist of the violation.

A conflict of interest arises when there are competing interests on the same issue.
It is a factual situation. The violation arises when the member resolves the conflict
in a manner which gives or could give a benefit to himself or to another which is
not in the public interest. A benefit is not solely an economic one.

To support a breach of the legislation, there must be objective findings of an action
based on proven facts which are improper even if the actual or potential conflict
does not result in a personal benefit.

Politicians in making laws are constantly involved in weighing competing interests
and considerations and adjusting to the realities of life. However there is a
difference between compromising on issues and compromising on basic principles.
One cannot retract from the principle that the end does not justify the means and
capitulate to the pressure of self interest groups; to the potential for perversion by
paid professional lobbyists; or other forms of corruption.

Politics is a rather precarious profession with re-election subject to the whims of
a volatile electorate. If we want responsible and successful people in public life,
some system must be put in place to protect members who hold assets which give
rise to a potential or actual conflict situation.

One mechanism employed to avoid divestiture of assets is the "Blind Trust" which
requires the member to turn over to a trustee specified assets, usually marketable
securities, which could create a conflict. The trustee must be at “arm’s length” and
have complete control.

Blind Trusts are considered by many to be artificial and unrealistic arrangements.
The public perception is that the interest of the donor and the trustee cannot be
separated and point out the difficulty of proving that the two parties do not discuss
the trust investments.
This arrangement has disadvantages for the Member particularly when the trustee lacks business acumen of a lesser standard than the Member and a substantial loss results. However, if the assets are of a sensitive nature, the only satisfactory solution is complete divestment.

In our legislation, the term is simply "trust" instead of "blind trust". However, we refer to the trust as a "management trust". This is a distinction without much difference but it sounds better even if not much more effective.

At present our office is working with representatives of the government and the opposition parties in drafting amendments to the present Act for presentation to the Legislature. If accepted they will provide a more reasonable approach to the "trust" issue and grant more discretion to the Commissioner in determining what assets are required to be placed in a "trust" and when divesture must be resorted to.

No legislation should attempt to control the absolute right to the Prime Minister to impose certain restrictions on the Members of the Executive. They need not be the same for all Members, but should be tailored to meet the situation peculiar to that Member and his or her particular portfolio. Since such restrictions bind only the individual Cabinet member involved, they should not be made public.

To be a part of government is a real challenge. A chance to affect thought, to advance ideas, to perform. It provides an opportunity to innovate from inside the site of power, where power ideally can be transformed into reality. In short, it is a chance to do something good for your fellow man by making your community and your country a better place in which you, your children and your grandchildren may live and flourish.
OPENING CEREMONY ADDRESS

Honourable John Humphrey

Your Excellency, Members of the Commission, Honourable Prime Minister, Parliamentary Colleagues, Members of the Diplomatic Corps, Ladies and Gentlemen. We meet to open an exercise in discussing this topic of integrity in public life at a time when the Chairman of the Integrity Commission has indicated publicly that he too is a "toothless bulldog". You have heard public sentiments expressed by people in authority that if they don't have teeth, they cannot be effective in the execution of their duties and responsibilities.

As a Member of the Opposition, I too, have no teeth. I can do little or nothing as a Member of the Opposition and I can speak on behalf of the Opposition. We can do little or nothing to remedy the problems facing the society.

In fact, if we look at our constitutional arrangements, there is only one office in the Constitution of the Republic of Trinidad and Tobago that really has teeth, capable of biting, and that is the Office of the Prime Minister.

Now, the Office of the Prime Minister, under our Constitutional arrangements, is a virtual priministerial dictatorship with the trappings of democracy.

Integrity of an individual who is seeking to serve the interest of the people is something that the people have prejudged in electing that individual, but the relationship between Prime Minister and Minister is not based on that. It is based on mistrust and the Prime Minister has to make judgments - very often, very erroneous judgments in judging the integrity of those who work under him.
If a person really has integrity, does he have to shout it out? Does he have to constantly try to persuade his colleagues that he has integrity? I think not. And in fact we saw recently a terrible hurricane in one of the most developed countries in the world in an area in that country that is economically viable and we saw the devastation wrecked by that hurricane named Andrew. And then those of us who have a trained eye who viewed the damage and who knew a little about what is required in building the buildings in the first place where there is a stringent hurricane code, realized that there is no integrity in the construction industry in that State in the United States as the code was not applied and as a result of that, just about every house that was subjected to the wind collapsed. So integrity to me is a practical thing not a judgmental thing.

If for example a nation spends more or consumes more than it produces, it cannot have economic integrity; it has to borrow to make up the difference. When you borrow, future generations have to pay back, and the pressures exerted on the society are such that the lack of integrity of the economy would be just as devastating as the hurricane that passes through an area where the houses are not built with structural integrity. Trinidad and Tobago today is paying the price of a lack of economic integrity and the level of crime especially among the young people - teenagers engaging in the most atrocious of crimes, senselessly - to me this indicates that there is not enough steel in the beam, and when you put the weight on, it is going to collapse. We are going through a useful exercise today, but you know, the Integrity Legislation that we pass in Parliament requires us to fill out a form every year indicating what our assets, our liabilities and our income for that year are.

In my case you might as well photocopy each year's declaration but reduce the assets, increase the liabilities, leave the income where it is because it is not changing but the living is escalating and it is making life harder and harder for me, and I am an income earner. What is life like for those who are not in a position to earn income and that is the vast majority? The incomes of the population, working population are becoming more and more meaningless, and you want integrity.
I think perhaps the most useful exercise ever committed by this Commission and by the Chairman is the exercise that is commencing this morning and I wish you well, Mr. Chairman of the Integrity commission. The members of this Commission I have no doubt are citizens of this country who are of the highest integrity and who may mean well for Trinidad and Tobago. I looked through the brochure of the programme to find that they are very, very good citizens of Trinidad and Tobago, and guests who have come for this occasion listed to participate I wish you well. But quite frankly I do not have very much confidence that there will be sufficient steel in the concrete to keep the beam suspended as we need it at this time in Trinidad and Tobago but I will keep my fingers crossed and the Opposition will try to do its part though we can't fight very deeply with only guns. So thank you very much.
THE OPENING ADDRESS

His Excellency President Noor Hassanali

Thank you Mr. Chairman, Ladies and Gentlemen. Greetings from my wife and myself with our prayers that God's peace will be with us all.

Mr. Chairman, I should like to join in respect to sending cordial greetings to our visitors from overseas and express the hope that they will enjoy their brief stay in the country both inside and outside of the symposium, party or no party.

Mr. Chairman, the word "integrity" I understand derives from the Latin word meaning "to make whole." Integrity suggests an unimpaired wholeness of human character. The dictionary meaning of the word reflects the many aspects of the all-embracing nature of the virtue that is integrity. The meaning calls to mind such concepts, as purity and righteousness. It calls to mind the biblical injunction which requires man to strive to be perfect "even as your Father in heaven is perfect" an injunction which I respectfully will suggest that our Creator expects the individual human being to do his best and not less than his best in every one of his legitimate endeavours.

Mr. Chairman, integrity is morality; it is ethics, it is honesty, sincerity; it is commitment to truth not to expediency. Integrity is the relevant consideration in the behaviour of persons in binding relations as between parent and child, husband and wife, employer and employee, professional, and client or patient. We citizens of Trinidad and Tobago have since 1962 constitutionally committed ourselves to and I quote "Respect for moral and spiritual value and the rule of law." You see, we recognise that combined with the law, man-made law is not enough. However, and notwithstanding such constitutional commitment to morality and our desire for peace, order and good government, there is today in our society increasing evidence of moral disorder, of misconduct involving among other things dishonesty, violence and disloyalty.

Integrity is now perhaps an endangered virtue. As perceptions of virtue are constantly changing, such change may reflect society's anxious search for the truth. However, concepts of good and evil or right and wrong are sometimes equated in its mere opinion as if to suggest that after all, there is nothing either right or wrong but thinking only, and only thinking makes it so.
Mr. Chairman, if my only reason for not doing wrong is that I fear the discovery of my deed and the possible consequences, then I suggest I may yield to temptation to do wrong whenever I believe that I shall benefit and that my deed will not be discovered.

Such an attitude is a prescription for corrupt behaviour, and breeds corruption in society, and yet as children, did we not believe that God sees every act done and knows everything including our thoughts? I submit, and respectfully submit, because of this tendency to influence, this immorality therefore remains wrong and condemnable.

A philosopher many years ago lamented that "friend" was "a word so common" which "represents a thing so rare." I trust Ladies and Gentlemen, that we shall never feel impelled to make the like comment about "integrity".

And yet, a former President of the United States of America is reported once to have said that a person who is fundamentally honest does not need a Code of Ethics. The Ten Commandments and the Sermon on the Mount, the latter being in effect a lesson on selflessness, are all the ethics that anybody needs.

God's spirit in man is the source of man's moral and spiritual strength. Hence the role of the enlightened human conscience in the supervision of intellectual judgment. Significantly Ladies and Gentlemen, in oaths of office our citizens invariably undertake and has to undertake to discharge their responsibilities not only to the best of their ability, but also conscientiously.

Lip service to integrity is not enough. The democratic society makes only such laws as it can properly enforce; and man-made law cannot regulate all aspects of morality. On the other hand, civilized society, I submit, cannot survive except on the basis of universally accepted moral order.

The society which ignores morality (that is to say, moral and spiritual values), the society which ignores integrity in private or public life does so at its peril. In this connection, I commend to you, Ladies and Gentlemen, an article entitled, "To pose a Question of Ethics, by Robert McGarvey on page 30 and following, in the publication "Kiwanis International," of February, 1993".
Local legislation which provides for the establishment of our Integrity Commission is limited in scope. It empowers the Commission inter alia to receive declarations as to the financial affairs of certain persons in public life.

Accredited leaders and those of us who hold ourselves out to be leaders must share responsibility for promoting moral order in our society. Every citizen must of course, strive to be a worthy example in his private life as well as in public life. Our hope thus for integrity may remain alive only while society guarantees the active role of the enlightened human conscience, that functional agent of God's spirit in man.

Some form of public education process may help to cultivate the enlightened conscience in society - may help the citizens recognize the constraints of integrity and the importance of accepting those constraints. Any such process, however, must start in the home and with the child, at the age of discretion, the best place and the best time to start, and one hopes it remains in the home for all time. For the home is, or ought to be the best unit example of moral order in our society.

One hopes that the youngster in civilized society acquires primary values even before completing his secondary education. Nevertheless, in adult life one will from time to time meet difficult cases, even border line cases, sometimes referred to as "the gray areas" in situations, on the issue of integrity. Some of such cases may relate to conflict of interest. However, whatever the complexities of modern life, the office holder who discharges his duties conscientiously, honestly and to the best of his ability will rarely encounter issues of integrity which he himself cannot honestly resolve.

Mr. Chairman, local legislation which provides for the establishment of the Integrity Commission is limited in scope. It empowers the Commission, among other things, to receive declarations as to the financial affairs of certain persons in public life.

I think that the Integrity Commission has been dutifully discharging its responsibilities under the Integrity in Public Life Act. I am aware that in order to acquaint itself with procedural and substantive law relating to Integrity (in public life) in other countries beside our own, the Commission has been looking outside of Trinidad and Tobago and examining comparable institutions and legislation, and making appropriate comment in its annual Reports to Parliament.
Since the people of Trinidad and Tobago are constitutionally committed to 'respect for moral and spiritual values and the rule of law', we are, I submit, by necessary implication, committed to the constraints of Integrity, absolutely; that is to say, in private life as well as in public life. In other words, we are so committed, even with or without any legislation enjoining obedience to the constraints of Integrity.

Mr. Chairman, I trust that the Symposium will:

(1) identify aspects of Integrity not covered by legislation, and consider whether the scope of the existing Integrity legislation ought to be and can be expanded;

(2) consider an outline of public education process designed to promote a national concept of Integrity; and

(3) emphasize to office holders that they are and ought to consider themselves as vested primarily with responsibility, and only such power as is incidental to and necessary for the due discharge of that responsibility.

Mr. Chairman, Ladies and Gentlemen, and to all the participants in the Symposium, may God guide you in all your deliberations and in the conclusions which you reach in your endeavours to promote in your respective countries integrity in the citizen's behaviour - in private life as well as in public life.

I have very great pleasure, and indeed it is a privilege to declare your Symposium open, and set it on course.

Ladies and Gentlemen I thank you, and may God bless us all.
PART II

THE

SYMPOSIUM SESSIONS
SESSION 1

INTEGRITY/ETHICS LEGISLATION
AND ITS EFFECTIVENESS IN
PROMOTING MORALITY
IN PUBLIC AFFAIRS
SESSION 1

THE MODERATOR AND PANELISTS

Moderator

ARCHBISHOP ANTHONY PANTIN, C.S.Sp., BA.

Archbishop of Port of Spain, Trinidad and Tobago since 1968. After studies at St. Mary’s College in Trinidad and Montreal University, Canada, did Theology Studies in Dublin. Ordained Priest in 1955. Nominated Archbishop while Religious Superior at St. Mary’s College in 1967. Consecrated in March 1968.

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Panelists

SIR ELLIS CLARKE: TRINITY CROSS

Last Governor-General and First President of Trinidad and Tobago; FIRST AMBASSADOR to United States of America and to Mexico; Permanent Representative to the United Nations and to the Organization of American States. Appointed Chief Justice in 1961; and later that year Constitutional Adviser to the Cabinet until Trinidad & Tobago’s Independence in August 1962. From 1954 to 1961, served successively as Solicitor General, Deputy Colonial Secretary and Attorney General. Was called to the BAR at Gray’s Inn, after studies at St. Mary’s College, Trinidad and London University, England.

---OOO---
Panelists

**DR. JOHN LA GUERRE**

Reader in the Department of Government at the University of the West Indies, St. Augustine, Trinidad.

Has been with the University of the West Indies since 1970. Served as Head of the Department of Government, Dean of the Faculty of Social Sciences, Chairman of African and Asian Studies Unit and is currently Co Director of the Centre for Ethnic Studies. Served as a Member of the Constitution Reform Commission (1987).

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**THE HON. GREGORY THOMAS EVANS, Q.C, B.A, LL.D, Ph.D, K.C.S.G.**

Commissioner, Conflict of Interest, Ontario, Canada.

Former Chief Justice of the Province of Ontario. Has been Commissioner, Conflict of Interest for Ontario since 1988 and Commissioner, Conflict of Interest for the Northwest Territories since 1992. Called to the BAR in 1939. Appointed Queen's Counsel in 1953. Is a graduate of the Universite' de Moncton where he earned his Ph.D. Since 1991 has been Treasurer of the American Judges Foundation.

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Panelists

JOHN DOUGLAS BARRYMORE RENWICK

Legal Adviser (General) of the Organization of Eastern Caribbean States (O.E.C.S.)

Former Pusine Judge of the West Indies Associated States Supreme Court. Retired in 1984. Educated at Grenada Boys' Secondary School, Keble College, Oxford and the Honourable Society of the Middle Temple. Received the Bachelor of Arts Degree, Hons. Jurispudence and was called to the English BAR in 1950. In February 1954 joined the Judicial & Legal Services of the Windward and Leeward Islands and has served in all now Member States of the O.E.C.S. Took SILK in 1968.

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BRYNMOR THORNTON INNISS POLLARD, S.C.

Legal Consultant, CARICOM Secretariat

Responsible since 1985, for the legal division of the CARICOM Secretariat and the harmonization of laws programme of the Caribbean Community. Educated at Queen's College Guyana, University College, London University and New York University. Received the Bachelor of Laws LL.B. (Hons) and Master of laws LL.M. Called to the BAR in 1956. Served as Chief Parliamentary Counsel, Guyana and has been with the Caricom Secretariat since he retired from the Guyana Public Service in 1983.
The theme of this panel discussion and moreso of this Symposium cannot be more adequately and eloquently demonstrated and summed up than in the following observations of the Chairman of the Commission, Mr. Justice George Collymore, made on the occasion of his formal introduction of the panelists of this first session of the Symposium.

"The general public seems to be clamouring for some institution which would be able to monitor and control the behaviour of persons in public life and we of the Integrity Commission have discovered that we are not alone in the cry, for we have found, in our researches, that a great many countries in the world have put in place some form of control over the behaviour of public figures.

We, however, have in the past taken our lead in many matters from Britain, and there are those who would point to the fact that there is no Integrity Commission to be found in Britain. The answer to that, of course, is that in Britain there are the Conventions of Parliament and other bodies, which have established the very principles of integrity control that we will seek to examine during the course of this Symposium.

In the United States and Canada, these principles have become enacted into law and it seems to us in our Commission that in our part of the world, this is the way to go. Just as Britain, which has spawned the Westminster style constitution in many parts of the world, itself has no written constitution, so likewise, the principles of ethical behaviour which have been hammered out in the experience of public life in Britain and other countries over the centuries, have found no expression in legislation in Britain, but now are enacted into law in many countries."
Mr. Justice Collymore noted that any integrity legislation will inevitably entail legislators placing restraints upon themselves in their daily conduct and behaviour and that the success or failure of such legislation would depend upon the willingness of the participants to abide by the rules. He further stressed that if we do not have worthy citizens in public life who are committed to observe standards of integrity then the chances of success of an Integrity Commission would be slim.

In any event, however, the establishment of integrity standards and the institution of the machinery of enforcement would nevertheless go a long way towards the creation of a moral atmosphere.

In introducing the moderator, His Grace the Most Reverend Anthony, Pantin, and the panelists, the Chairman sought to focus the panel’s attention for discussion on such matters as -

(a) whether there should be an Integrity Commission at all;
(b) who should be considered as persons in public life;
(c) whether the Integrity Commission should be established as a Crime Commission addressing such matters, not only of breaches of ethical standards, but also offences of corrupt behaviour punishable under the criminal law. In this regard, the Chairman expressed his view that the enforcement of the criminal law should form no part of the functions of an Integrity Commission;
(d) the scope of any Integrity Commission lies in the monitoring of the observance of standards of ethical conduct of all persons in public life, the non-adherence to which standards are not now breaches of any law. In this regard he adverted to standards of behaviour and conduct in such spheres as:

- Conflict of Interest
- Insider Trading
- The acceptance of gifts
- Influence Peddling
- Lobbying
A nation requires some form of Commission to oversee and monitor the conduct and affairs of legislators.

2. Parliament cannot teach morality but it can set certain standards to which legislators should conform.

3. Any Commission established should have the power to recommend penalties to be imposed by the legislature, the most severe of which should be the vacating of a post or office.

4. The category of persons to whom integrity legislation is now directed should be widened to include those persons who may exert influence over persons in public life. A note of caution was, however, sounded that in so doing care should be taken to ensure that the administration and operation of any such integrity legislation do not become unworkable and burdensome on the Commission without adequate and well trained support staff and services.

5. Political parties which are recipients of financial support ought to register contributions received with a body established by law for that purpose such as the Integrity Commission.

6. A code of conduct for politicians, whether government, opposition, independent or otherwise, to which all politicians must subscribe and adhere should be established.

7. Any Integrity Commission should be given authority to receive information from any source as it thinks fit, including the ability and authority to inquire into and verify any information so received. At present the Commission's role is limited to the receipt and examination of declarations, ensuring their proper custody and maintaining the secrecy of its functions.
8. It must be recognized that the present Integrity Commission was established under the specially entrenched provisions of sections 138 and 139 of the Constitution and, consequently, any amendment or repeal of any of the provisions of the legislation relevant thereto would necessarily require the "special majority" votes, that is, not less than three quarters of the votes of all members of the House of Representatives, and not less than two thirds of the votes of all members of the Senate.

The question thus arose as to whether the special majority votes procedure should continue to apply, in which case every need for amendment will be subject thereto; or, whether the requirement for such special majority votes should be abolished so that any fresh legislation or amendment would require only a simple majority.

9. There should be a public education programme designed by the Integrity Commission to teach an understanding of ethical standards applicable to persons in public life.

The trend of this session suggests that the role, function, responsibility, powers, duties and authority of the Commission should be widened and strengthened to render it a more effective and assertive body rather than that it should continue simply as a receiving, monitoring and record keeping body having no coercive powers.
Today's panel discussion touches on a subject upon which there has arisen a great deal of controversy. Hardly anyone who has come into contact with our Integrity in Public Life Act has expressed satisfaction with it. A Constitution Commission which submitted its report not so long ago, came out boldly in favour of its abolition or at the very least, its amendment to give it effective powers and at the last elections in 1991; all the political parties expressed their dissatisfaction with it, and promised to "give it teeth".

**Can Man be made good by Act of Parliament?** The Commission's answer to that is that Parliament cannot make man good, but it certainly can make him careful. Making men good is the job of religion. The sanctions which the State may impose however, can put a restraint upon the activities which can effect compliance with the accepted norms.

If we do not have worthy citizens in public life, therefore, who are committed to standards of integrity, the chances of success of Integrity Commission will be slim. The establishment of Integrity Standards, as an institution of the country and the enforcement, would in our view, however, go a long way towards the creation of a moral atmosphere.

**WHO SHOULD BE PERSONS IN PUBLIC LIFE?**

This is one of the burning topics upon which there was great controversy when a Bill on integrity was introduced into Parliament several years ago.

Another issue that we raised was **WHETHER THE INTEGRITY COMMISSION SHOULD BE ESTABLISHED AS A CRIME COMMISSION?** As such, it would have jurisdiction, not only over breaches of ethical standards, but also the offences of corrupt behaviour punishable under the criminal law.
The true role of an Integrity Commission, in the Commission’s view, is to safeguard standards, breaches of which should now be declared to be breaches of law, punishable in the manner appropriate for such offences. The targeted areas of those offences, which we term offences against public morality, are in the areas of:

- Conflict of Interest
- Insider Trading
- The acceptance of Gifts
- Influence Peddling
- Lobbying

---OOO---

Gregory T. Evans

I am of the view that you require some form of Commission or Commissioner to look after the affairs of the Legislative Assembly.

It’s true that you cannot teach morality, but you can set certain standards of conduct to which the legislators will have to conform, and if they don’t conform, then that Commission should have sufficient powers to recommend to the legislature, certain penalties including the most extreme one of vacating the seat.

However, it is the Legislature that should implement that penalty, not the Commission themselves. If you are going to make recommendations, if you are going to have a Commission to sort of teach something about morality then that Commission should have the power to suggest sanctions to be imposed by the Legislature.

I don’t think that legislators are any more corrupt than they ever were. But there is a growing dissatisfaction with legislators, and a growing dissatisfaction with the judiciary. Many institutions today seem to be under attack, and I do not think the function of the Integrity Commission is to make it difficult for the legislator. The honest ones do not have to worry and the dishonest ones should have someone with a stick over their heads. So this is why I’d say, I do not think that you can operate today, in today’s society, without some “watch dog” - if you like - looking after the interests of the public.

---OOO---
People generally speak of an Integrity Commission as if its purpose is largely to achieve an improvement in the moral stature of a country. Integrity and Integrity Commissions, in my view, however, contribute to more substantial gains in society because, as the history in Africa and elsewhere will suggest, corruption has been a powerful drive in the overthrow of States. Integrity Commissions, therefore, go a long way towards preserving the stability of the State.

The second objective, is that immorality in public affairs does not only mean a question of some benefitting and others suffering losses. It means that it has far more widespread effects on the economy of the country because it leads to the mis-allocation of a number of resources. It, therefore, produces inefficiencies which, again, can have disturbing effects on the State.

The current Integrity Commission is restricted to a very small number of persons and there have been, quite understandably, calls that the net should be widened. It must be recognized, however, that one of the reasons for making our politicians responsible for their actions and their conduct so far as the State is concerned, is that, for one reason or another, they occupy very important and influential positions. They are the exemplars of society, and if for that reason alone, they must recognize that they have a heavy responsibility thrust upon them. What it means is that those who are elected to high office have to perform at a very high standard.

We generally speak about morality in public affairs but sometimes -as the experience of a number of other countries has demonstrated -ideas of what morality is about, differ between and among classes; between and among groups; between and among races and between and among different kinship sections. And I think this is one of the areas, when we discuss "Integrity", that one has to look for some pressures against which our politicians and public officers have to contend.

Politicians are the delegates, almost, of constituencies of people and, they are under very strong pressures to deliver. Sometimes a bureaucracy does not work as speedily as it might be thought necessary, to produce goods and services, and at times politicians act in ways that circumvent the law or the conventions, not because they are intrinsically dishonest, but because they are concerned with justice, namely the provision of goods and services for people who, in their opinion, have been disadvantaged for too long.
This does not mean that one should condone the infringement of the law. What it means is that if we are to achieve integrity in public life, then a number of other measures have to be put into place, such as Public Service Reform.

Politicians and men in public office also depend on contributions to their political parties. As politicians have reminded me, votes are not only won with rhetoric and promises, People have to be paid for their services. Sometimes - I'm not saying it occurs - but the temptation is certainly there, that those who have contributed to the party's coffers will try to extract some benefit from them.

**What is the solution?** One possible solution is to ensure that there should be some way by which campaign contributions can be registered with a body such as an Integrity Commission. And just as Ministers, Parliamentary Secretaries, Chief Technical Officers and other people are required to file declarations of their assets, so I suppose the Commission could require a declaration in respect of campaign contributions.

I also think that in Trinidad we may be witnessing a dilution of some of the pressures which hitherto impinged on the problems of morality in public life namely, the retreat of the State from what was regarded as private sector activity. This does not mean that those kinds of temptations would altogether disappear, because with the retreat of the State from economic activity and the liberalisation of the economic forces taking place the world over, it follows that more multinational organisations would now be making their influence felt. It is, therefore, all the more necessary that the relationship between the private and public sector should be more closely scrutinised.

Finally, I think that when we speak about morality in public affairs, we must recognise that the State and the agents of the State are themselves products of the society - how people are socialized in society, at universities, secondary schools, in churches. Law associations and other professional organisations, also have a collective responsibility in ensuring that some kind of consensus is reached in the society as to what constitutes proper conduct. I would recommend that, perhaps, the politicians can set a lead by having the Government and Opposition publicly subscribe to what they regard as a Code of Conduct for Politicians.
The question has been asked before, as to whether we need to have integrity legislation. There are some sceptics who take the view that we’ve already got the criminal law which would deal with some aspects of bribery.

In our Constitutions we have already made provision for the Ombudsman and, therefore, why should we saddle ourselves with yet another instrumentality, the Integrity Commission?

I think this point has been answered in some way by a Committee which was established to enquire into the feasibility of establishing an Integrity Commission for Guyana. They came up with a report, made recommendations, but the legislation has not been enacted as yet. But essentially, the point they made was that we had to make a start somewhere.

It seems clear to me, the people are concerned about the narrow scope of the Integrity Commission under the present arrangements. Basically, the position is, can you really restrict the application of a code just to politicians? I know that you are trying to provide for accountability of the people’s representatives but integrity in public life seems to me to apply to a wider category of persons.

In the Trinidad and Tobago legislation, I see it applies to Permanent Secretaries and it applies to a category of officials who are called Chief Technical Officers. Could we really stop there, having regard to the way the State operates? Dr. La Guerre spoke of the involvement of the State at one stage in the activities of the country. And he talks now of the retreat of the State.

But then, what do you do about the Managers of the Public Corporations, and the people who are in a position to award contracts and the like? Once you get into that area, you see that there is a potential for the list to be extended and with the extension of the list this must pose questions for the operation of the Act and the Commission. Put bluntly, if you extend the categories, would the Act be workable? Would this be casting too great a load on the Members of the Integrity Commission?
With regard to categories, a very interesting point arose in the Guyana deliberations, and that is whether persons exercising judicial functions ought to be included in the list. And they made reference to the fact that in the United States there is the Ethics in Government Act, and under that legislation, judicial officers are required to make declarations as well. They are not exempt. The argument, of course, being, with due respect, that even in their case attempts could be made to reach them. So this is an issue which I throw out in considering to what extent the jurisdiction of the Integrity Commission should be extended.

Now, looking at the Trinidad legislation, that legislation gives the Commission power to establish a Tribunal to enquire into the veracity of any declaration which is submitted before it. And it occurred to me whether we ought to stop there. Is it feasible? And here is where the experience of the Chairman of the Ontario Commission and his views would be welcome - as to whether in any proposed amendment to the Act consideration might be given to giving the Commission power to receive information from members of the public, on things like gifts and what not, given the persons who are described as being in public life. It may well be that, if it is decided to go that route, one may have to hedge it in by saying that information will have to be given on sworn affidavit and things of that kind, and so on. But what I am posing is whether you think it would be safe to invite other persons to divulge information to the Commission on which the Commission would act.

So that is the second point that I wish to make in terms of the Integrity Legislation.

I must return to the point of the working of the Commission. Are they in a position to question the accuracy of what is submitted to them? I know that there is provision as I mentioned earlier, in the legislation for questioning the accuracy of the submissions by appointing a Tribunal of themselves to investigate the matter; and as a result of that investigation they may very well refer the matter to the Director of Public Prosecutions. But what I would really like to ascertain is whether they find that this is a tedious exercise - and what is the kind of criteria, what is the kind of information which would suggest to them that a particular submission is not accurate.

---OOO---
I think that perhaps what I may do is to point out a little of the background of this and the limitations that there are. We have been speaking all along about legislation and one tends to look at the Act that is in force and to say should that Act be amended should it be extended this way, that or the other, what we must remember is that the Integrity Commission is established not by that Act but by the Constitution. The sections - 138 and 139 - of the Constitution really provide for an Integrity Commission and those sections determine who are the people to be affected by the Integrity Commission and what are the limitations of the powers of the Integrity Commission. So that this is a matter of the Constitution, and any Act that is passed has to conform to these very restricted provisions of our Constitution. What is more, sections 138 and 139 are specially entrenched provisions and it is not a simple matter of legislation to simply expand or extend this that or the other.

Section 54 Subsection 3 of the Constitution provides that, in so far as it alters this section and many others, including 138 and 139, a Bill for an Act under this section shall not be passed by Parliament unless it is supported at the final vote thereon -

(i) In the House of representatives by the votes of not less than three fourths of all the Members of the House; and

(ii) In the Senate by votes of not less than two-thirds of all the Members of the Senate.

Now, there was considerable difficulty in getting the provisions that are in the Constitution now agreed to. The Senate gave a lot of difficulty about it in those days. If we are going to consider expanding the role of the Commission; if we are going to consider introducing all sorts of new powers and giving it other functions, then let us face the fact that we have to deal with amending the Constitution and amending it in a very special way. So that I am not for one moment suggesting that this should not be done but I am saying, let us recognize that care was taken to entrench these provisions and care was taken to entrench them in this way, and care was taken to specify that:
The Commission shall be charged with the duty of:

(a) receiving from time to time declarations in writing of the assets, liabilities and income of Members of the House of Representatives, Ministers of Government, Parliamentary Secretaries, Permanent Secretaries and Chief Technical Officers;

(b) the supervision of all matters connected therewith as may be prescribed;

Very vague terms. What is meant by the supervision of the matters connected with receiving declarations in writing? And then, the enabling section 139 says:

"Parliament may make provision for:

(a) the procedure in accordance with which the Commission is to perform its functions;

(b) Conferring such powers on the Commission, and imposing such duties on persons concerned as are necessary to enable the Commission to carry out effectively the purposes of section 138","n
and those purposes are extremely limited;

"(c) The proper custody of declarations and other documents delivered to the Commission"

merely the custody you can provide for;

"(d) The maintenance of secrecy in respect of all information received by the Commission in the course of its duties with respect to the assets, liabilities and income of any member of Parliament and any other person."

So that there is not a provision that you can report this or report that but the provisions for secrecy have to be made.

This Symposium is for the enlightenment of the public and there may have been the impression abroad that all that is necessary is to go to Parliament and to say, "Look, we are going to expand this and we are going to do that now. We have taken the decision, we have a majority and we can do it."
That is not so. What I want to point out is that, perhaps unbeknown to many people, there are these constitutional obstacles and if we are thinking of a great expansion of all these things, let us bear in mind that we have to begin all over again a new concept of Integrity Legislation.

---OOO---

John D.G. Renwick

When I was nominated by my Director General to attend the Symposium, I decided that I will look at such legislation as there was in the Organization of Eastern Caribbean States - the Windward Islands and Leeward Islands as they were known - on the topic of Integrity Legislation. As far as I am aware, there is no Integrity Commission in St. Lucia although provisions are to be found in Sections 118 and 119 of the Constitution of St. Lucia.

Section 118 states:

"There shall be an Integrity Commission for St. Lucia which shall consist of a Chairman and not less than two or more than four other members."

In spite of that divine injunction, there has been no Integrity Commission appointed in St. Lucia and the Constitution came into force in 1979. I have been told that a Chairman was appointed, also a Member of the Catholic Church, but no other members were appointed and the Commission does not operate.

But that does not mean that Integrity Legislation is not extremely important and the concepts of Integrity Legislation are not valid. I would like to now, however, issue a few words of caution.

Every time I attend Symposiums or Workshops or whatever you wish to call them, I get the deliberate view that we are trying to create another Body. We have Parliament - first of all, we had uni-cameral legislature, then we became bi-cameral, then we have an Ombudsman, then we have an Integrity Commission, then we soon are going to have legislation or proposed legislation dealing with Consumer Protection.
All of these bodies cost money and if they are going to be adequately funded, it is better to add a word of caution that we are seeming to have more bodies than we have citizens to correct wrongs that we all know exist, and in a large measure we know the perpetrators. So that in a large measure most of the wrongdoings that we perceive are, in fact, crimes. So that if you looked up the criminal code, you will find that almost every form of human endeavour is a crime of one kind or another.

We have those criminal acts, and the crimes that we envisage as breaches of morals now are becoming crimes.

Be careful that we do not create these terrible bodies, the creation of which is a crime itself.

---OOO---

Andre Mondesir
(Participant From the Floor)

I just want Dr. La Guerre to elaborate on two points he made - and the first is that which he made with relation to the relationship between the private and public sectors as a means of improving integrity. Also I was not too sure exactly what he was getting at when he made that point and particularly with regard to the point he made dealing with the Opposition and Members of the Government subscribing to what he calls a code of conduct. I shall like him to elaborate on this just for general information.

---OOO---
I mentioned the private sector because I was looking at the social factors involved in morality in public affairs.

It is generally believed that politicians are the villains alone. What I was trying to suggest is that the people who produce the temptations, who offer the inducements and other kinds of pressures, are in my view, equally culpable and therefore some account should be taken of the fact that, for instance, in the case of contracts, that it is not only a politician who is involved or a public official or a chief technical officer. Also involved is someone from either the public sector, the local private sector or someone from a multinational - and therefore we have to look, if we are really serious about promoting integrity and morality in public affairs, for precisely where the pressures come from.

Secondly, the question of a code, I was suggesting a public subscription to a code of conduct in terms of how politicians behave; what is considered acceptable behaviour; what is considered proper representation; what is considered proper influences. For instance, if I may illustrate - I think a Minister who is also representative of a constituency, and who is charged with giving representation to his constituents has a moral right to write an employer recommending X for a job because that is, in my view, what representation means - you represent the interest of a particular individual. I think that is why we need to go more precisely into what morality in public affairs really means, and what integrity really means, and therefore we need a new concept, as Sir Ellis Clarke pointed out, of what integrity in public life really entails.

---OOO---

Syl Lowhar
(Participant From the Floor)

When Dr. Williams put in the Republican constitution a provision for an Integrity Commission, it was a very deliberate act and I believe that the intention was really to control corruption primarily among the politicians.
Nevertheless, he was insisting that somebody must start and set the example. He said we must start with the Cabinet, and we must start with the politicians but we must not close the door, we must open the door to other offices as Parliament may prescribe from time to time.

---OOO---

Senator Everard Deane
(Participant From the Floor)

I am particularly interested in hearing a bit more of the problems in our Constitution as outlined by the Hon. Sir Ellis Clarke to bring into force more teeth to the Integrity Legislation.

What do you see, Sir Ellis, as a way to get around this problem? I understand clearly that you would need a special majority in both Houses of Parliament and, as one of the greener Senators in this country, I am amazed to find out that some of the Senators in the past, opposed Senators being enshrined into that legislation.

Perhaps, I can make a public statement that if and when there is need as we all see it, now to support amendments, this Senator is prepared to support these amendments to make integrity legislation stronger.

I want to find out from Hon. Gregory Evans, if there is a similar problem from whence he came and what means were adopted to get around that problem. Because it seems to me that the conflict of interest laws in his country are working admirably.

---OOO---
There are three (3) ways of dealing with this matter:

**The first** would be to find out precisely what amendments we want. In other words, to determine the class of persons who should be included, the functions that the commission should perform and any other similar matters. And then to seek an amendment of the Constitution in those terms. That might take some time. That might be difficult, to get a consensus and to get the necessary majority.

In principle, yes, people will say we want such legislation, but if you are going to introduce so and so, why not introduce this, why not that, and so on. So while I say that is one way of doing it, it is not what I would recommend.

**A second way** of doing it would be to give Parliament much greater latitude and make it almost plenipotentiary and leave it, then to Parliament to work out from that, what they are going to do.

**The third way,** I must explain at a little greater length. It will sound contradictory. What you might do, is delete Sections 138 and 139 altogether. Have no provision in your Constitution about an Integrity Commission. You are then free to legislate about an Integrity Commission in whatever way you wish, with no Constitutional limitations. In other words, while to the average layman it appears that Sections 138 and 139 are enabling Sections under the Authority of which you can have an Integrity Commission performing certain functions, in truth and in fact they are limiting Sections. If they did not exist, you would be free to have an Integrity Commission applicable to anybody you like. You would be free to give that Commission the power to set up rules of conduct; codes of ethics; the need to report. You could deal with conflict of interests of any sort - you could do whatever you want - Parliament would be entitled to do it. Parliament is not now entitled to do all that, because if that is done, it would conflict with your provisions in Parliament of a limited and restrictive nature. So that if you feel that there ought to be substantial amendments to the present legislation, my recommendation would be - delete Sections 138 and 139; but, of course, to delete them you would require the necessary majority. But you could do that right away. Say, "Look, we are doing it, so that we would be free to pass whatever we want"; and then, you pass whatever you need.

---OOO---

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Well I don't think politicians are any different in Ontario than they are in Trinidad. When they are in Opposition, they are very vociferous and they desire to have firm, rigid rules. They want to be purer than ivory soap. But when they get into government, their enthusiasm seems to wane, and they are not quite so eager to get things going.

One thing I should tell you - we do not take complaints from the public. If there is a complaint made from the public, I tell them, "Go and see the Leader of one of the Opposition Parties." They'll be more than eager to take up your complaint." I spoke to the Leaders of the three (3) parties and said, "If complaints are going to be made to the Commissioner, somebody in each caucus should vet the complaint because there's always a "loose wheel" in every organization. And in order to avoid that, I would think they should be vetted by somebody because otherwise, you'd have to do as you do in Court - say that 'This was hopeless. It never should have been brought'. And that reflects badly on the individual, on the party, and on the whole process." And this has worked very satisfactorily.

---OOO---

Clyde Weatherhead
(Participant From the Floor)

If we are talking about morality in public affairs, and of politicians as representatives, it is not something we can legislate in that kind of way. It is something that we have to set a kind of moral standard in the society and put certain moral and political pressures on representatives to begin to account to the people whom they are supposed to represent.
Clyde Weatherhead
(Participant From the Floor)

I don’t know if in the United States or Canada with all its legislation, that that legislation has stopped corruption. It goes on. It is institutionalized in many ways. And in our society - being the kind of society we are - we are under that kind of pressure, even from outside.

So I would hope that perhaps we need to focus, as a society, more on the question of How do we control our politicians? How do we make them accountable? How do we put ourselves as electors in a position to remove them if they refuse to account? And, how do we put that kind of political system in place that makes that a reality?

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Justice Cecil Kelsick
(Participant From the Floor)

The main problem this symposium is going to face is the amendment of the legislation. I think it is generally agreed that it needs to be amended, that the powers of the Commission need to be enlarged, both in respect of the persons over whom they exercise jurisdiction and in respect of their powers for effectuating those powers - the question of investigating, the question of sanctions.

Now, whichever way we look at it, it involves an amendment of the Constitution. If you are going to amend it or if you are going to repeal it, there is an entrenched provision that you must have a special majority.

Now, there should be no difficulty in obtaining the votes of the elected members of Parliament, whether from the Government or the Opposition because it would be very difficult for any politician to oppose the enactment of this legislation.
We would like to see that those persons who are members of, say, the City Council, the Tobago House of Assembly and persons like that, be required to submit Returns. But where you have persons who are appointed to other Bodies, why do we want to see their Returns? I suggest that we should not. There is no point in submitting their Returns but we feel that there should be a supervisory jurisdiction which we should exercise with those persons.

We feel that one of the functions which the Commission should exercise is not one of holding a big stick over persons but we should be educating persons as to the kind of moral tone which should exist in their operations, so that we are saying that there should be a provision whereby they should be able to ask us whether actions which they are about to embark on infringe upon the Integrity Legislation.

So, so far as we are concerned, a point was made with regard to Judges in the United States. The Judges in the United States stand on a different basis from Judges in our part of the world. In the United States, Judges are appointed, they stand for election. They fall in the same kind of category of persons who offer themselves for public service. Judges here are appointed by a Commission.

Now, we have not included the Judges in our Symposium here. Judges, we feel, should not be subject to the legislation so far as concerns the submitting of assets and so on. Judges are now subject to a Judicial and Legal Service Commission. Any improvement in the performance of the administration of justice should establish criteria which are common to all persons in public life and within those criteria, each of the Commissions should function independently with regard to their powers under the Constitution. Because, under the Constitution, all these Commissions have the power to regulate the conduct of the persons within their purview. That is how we see it.

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If you think you have a good product, you should sell it, and that's what we have been trying to do in Ontario. We go out to Schools, Service Clubs and tell them what Conflict of Interest Legislation is all about. And the kids go home and they tell their parents. What we try to arouse in the children is a sense of morality because most of them get it from their Mother's knee. But after they leave home, they sometimes forget it and we try to remind them again.

If you have an Educational Programme it should be very helpful in selling the whole idea of Conflict of Interest and Integrity Legislation.

The Judiciary is a separate and independent branch of Government and Judges are usually supervised by somebody. In Canada, I sat as the Vice Chairman of the Canadian Judicial Council and Chairman of the Discipline Board and we dealt with a lot of complaints. Some Judges sought early retirement for health reasons and some just folded up and decided they would retire.

There are reasons why the Judiciary should be kept separate. We don't want politicians interfering with the Judiciary; we don't want the Judges interfering with politicians - they are separate.

---OOO---

Bryn Pollard

In this whole exercise of Integrity Legislation, this talk of integrity of persons in public life - but I have this reservation that undue emphasis is placed on the people in public life and not on those who are the "tempters", and I would like to throw this out to the audience in terms of - if I put it like this - those who provide the temptation to those in public life, if there's anything that could be done about that.

---OOO---

65
To answer Mr. Pollard’s question, it's going to be very difficult to deal with persons in the private sector except through the agency of the criminal law. And that is where your Prevention of Corruption Act comes in. And at the same time that the Integrity Act was introduced in Trinidad in 1987, a new Prevention of Corruption Act was enacted which expanded the area of corruption, so far as the criminal law is concerned.

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Archbishop Pantin

I think the whole debate has helped us to see that it’s not as easy as you would think to introduce effective legislation and that there are certain things for which you cannot legislate.

We are building on something that others may profit from later on. But I think what we have to try to do, is to make sure that even our young people must grow up with this idea of what a conscience is, and about how they have to adjust their sights according to some kind of laws of morality that are acceptable to all.

There are many honest people still in Trinidad and Tobago but sometimes the impression is given as if evil has taken over. But it depends on each one of us, because we cannot legislate for individual consciences.

That goes right down, the same as my brother from Guyana was saying about the "tempters" because it means also that there are people who are being catered for by the politicians and are also part of the "tempters." I will give you one example.

After what we call the "Black Power Revolution" in 1970 they started Special Works Projects. I tackled a then Government Minister and I said, "Listen, this is nonsense what you are doing. Isn’t it better to tell the people, "Look we know you don’t have food on the table, here is something to provide food for the family." But don’t tell them, they are doing work, when they are not doing work, and this was the following reply, almost Verbatim.

"Cabinet has decided that if we get ten per cent return, that is sufficient and at the moment we are getting ten per cent return".
And I said to him, “okay, then be prepared to get ten per cent return from the rest of the country” But all that is part of conscience. The ordinary labourer has to have a conscience too, although of course, the onus is much more on those who have responsible positions to be able to exercise them.

There are so many things that need to be done. But, I think if all the Commission does is to stir up that need for private morality that is within the consciousness of the citizens, it is bound to reflect on what they do otherwise, nothing can replace that; and no amount of legislation will ever deprive us of that serious responsibility we have of working and doing our bit, according to the laws of morality, which are pretty well accepted but simply not implemented.

But this is going to be obviously a long process, because there are so many complications. However, we have to be prepared to do a certain amount because if we have to wait until everything is perfectly in place and all the I’s are dotted and all the T’s are crossed, then we’ll be waiting until the end of this century. So that even if we haven’t got a perfect resolution and if we make a start somewhere, then I think this will be a foundation on which others can build afterwards.

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SESSION 2

INTEGRITY/MORALITY IN
PUBLIC AFFAIRS
RE. THE GOVERNMENT EMPLOYEE
AND PERSONS EXERCISING
PUBLIC FUNCTIONS
SESSION 2

THE MODERATOR AND PANELIST

Moderator

CECIL ARTHUR KELSICK: TRINITY CROSS

Former Chief Justice of the Republic of Trinidad and Tobago (1983-1985)
Born in Dominica. Graduate of the University of London - Kings College.
Called to the Bar at the Inner Temple in 1941. Admitted to the Bar of the
Supreme Court of the Winward and Leeward Islands in 1942.

In Trinidad and Tobago served as Solicitor General, Chairman Tax Appeal
Board, Chairman Law Commission, Chief Justice and Chairman of the
Council of Legal Education and Member of the Judicial and Legal Service
Commission.

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Panelists

MORTLEY DE PEAZA

Former Permanent Secretary. Chairman of the Statutory Authorities Service
Commission in Trinidad and Tobago. Educated at London University,
Catholic University of Ottawa and at School of Public Administration,
Pittsburg.

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Panelists

KENNETH LALLA, S.C.

Attorney at Law. Current Chairman of the Public Service Commission in Trinidad and Tobago. Served as a Member of the Trinidad and Tobago Parliament from 1966 to 1971, and as a temporary Judge of the High Court. Was Secretary and Vice President to the Trinidad and Tobago Bar Association. After serving as Vice Chairman of the Public Service Commission he succeeded as Chairman. He is also Ex-officio Chairman of the Police Service Commission and Member of the Judicial and Legal Service Commission.

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ROLAND GRAHAM

Graduate of the University of the West Indies, St Augustine -(Economics and Management) served as President of the Public Service Association of Trinidad and Tobago (1993)

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Panelists

GREGORY THOMAS EVANS,
Q.C., B.A., LL.D, Ph.D, K.C.S.G.

Commissioner of Commission on Conflict of Interest Ontario Canada.

Former Chief Justice of the Province of Ontario, Has been Commissioner, Conflict of Interest for Ontario since 1988 and Commissioner, Conflict of Interest for the Northwest Territories since 1992. Called to the BAR in 1939. Appointed Queen’s Counsel in 1953. Is a graduate of the Universite' de Moncton where he earned his Ph.D. Since 1991 has been Treasurer of the American Judges Foundation.

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DODRIDGE H.N. ALLEYNE

Former Permanent Secretary and Head of the Public Service in Trinidad and Tobago. Former Permanent Representative to the United Nations and Ambassador to Cuba. Presided over the UN Security Council in 1985. One time Energy Adviser to the Government of Kenya. Former Chairman BWIA. Educated in Trinidad and at Oxford.
This session was introduced by the Deputy Chairman of the Integrity Commission, Dr. O’Neil Lewis.

After the introduction of the Moderator and other panelists, there emerged the following submissions, views and observations:

(1) There was conspicuously absent from the list of persons who fall under the purview of the Commission, the members of the Senate who should also be so included having regard to the vital role which they play in the formation and implementation of policy;

(2) A perusal of the provisions of the Constitution and the Integrity Legislation gives the impression that the Integrity Commission is concerned essentially with money and financial matters and dealings. A perusal of Section 138 of the Constitution will reveal the types of institutions that are identified as established to serve the public and it is incumbent on those persons who occupy positions as public officials so to act and perform that they identify themselves as serving in the interest of the public.

(3) The jurisdiction and powers of the Integrity Commission ought to be widened and strengthened, and senior Public Servants remain under the purview of the Commission including the Permanent Secretary, who is too important a person in terms of the administration of public affairs and his role in the formulation, and oft times the initiator of policy himself to be treated merely as "a supervisor" and thus be precluded from coming under the purview of the Commission. However, the other view was expressed that the Permanent Secretary should be placed under the purview of the Public Service Commission and should not be made to declare his assets and liabilities as is required under the Integrity in Public life Legislation.

(4) The fact that an individual submits his Annual Returns, in accordance with the requirements of the law, does not preclude such an individual from becoming involved in corrupt activity in any other way. Thus apart from Legislation, steps should be taken to create an
infrastructure which would facilitate and enable the introduction of standards of integrity, not only in public life but in one's daily life, to the schools and other institutions where the youths gather. For it is during the formative years that an appreciation and understanding of right and wrong as well as the value of honour and integrity are inculcated and developed.

(5) As early as 1797 a resolution was proposed before the House of Commons in the United Kingdom which sought to compel members who may have had some interest in particular matters before the House to declare that interest. The resolution was not passed since it was felt and recognized that each member did possess and manifest a sufficient personal honour for which he commanded respect and because he was expected of course to declare his interest as and when it may arise.

(6) The law cannot in itself create and cultivate a moral atmosphere through the introduction of coercive measures and constraints. Such a moral atmosphere can only be the result of an inheritance transmitted through the leading strings of love and nurtured and cultivated in family and family relations and traditions. In this context it was noted that the Public Service Commission Regulation 65 captures this concept and other observations made herein in its provisions which states:-

"An officer shall conduct himself at all times in such a manner that he does not bring the service of which he is a member into disrepute."

It is within the parameters and background of this charge to public officers that the proposed Code of Conduct for public officers appears to be quite satisfactory as a vehicle in promoting and maintaining acceptable forms and manner of conduct, and "a fortiori", integrity in the public service.

(7) A strong, satisfied and well-respected public service is an essential prerequisite to good government.
When the first Public Service Commission was appointed, the members were named by the Governor General, on the advice of the Prime Minister. Today, under the Republic Constitution, they are named by the President after consultation with the Prime Minister and the Leader of the Opposition. This was a tremendous change from the Colonial Secretary’s days when you could be removed by the Colonial Secretary, for whatever reason - to the time when we became independent and you had a Service Commission appointed by the President or, rather the Governor General, on the advice of the Prime Minister; to what we have today - members appointed by a President, after consultation. So there is a big difference. I thought that you might wish to take into account, in your discussion the changes that have taken place.

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Dodridge Alleyne

I will speak, generally, on the question of "Integrity in Public Affairs", and only partially about the Public Service itself. The Integrity Commission is asked to look into matters of finance, assets, liabilities, incomes of persons holding certain public offices; for example, members of the House of Representatives. I see that there is no inclusion of members of the Senate and I think I understand the argument - that members of the Senate are persons nominated and they did not seek public office. However, experience has shown that many a measure, in Parliament is decided on the vote of Senators and some who are not political. Perhaps it is a question to be looked at, whether Senators should be included. I understand the argument for exclusion, that if you want to get the best persons, the best minds, the best cross-section, you do not wish to subject them to that kind of scrutiny. I am sure this is something we could discuss. So we have - Members of the House of Representatives, Ministers of Government, Parliamentary Secretaries, Permanent Secretaries and Chief Technical Officers.
My first observation is that the Integrity Commission is being asked to concern itself with money, as though integrity had to deal with money. Of course, it deals with money. It deals with persons’ incomes; it deals with persons not taking bribes; it deals with persons not doing naughty things. But a certain great man said, “The danger for our times lies in our Institutions divorcing themselves from the public interest.”

This is relevant to the situation of our country, and relevant to what we are talking about today; because all the offices listed and some that are not included here, are either the embodiment or representative of the institutions of our nation. The only interests that they must serve in those offices are the public interests.

Of course, such persons will have their private interests, their personal interests, their family interests. They must take care of their children, that sort of thing; but in terms of their official positions, they must look to the public interest.

There would be possibilities and times for conflict of interest, but it is their duty always to make sure that in their public functions, the public interest is paramount. And so, if and when any of our institutions divorce themselves from the public interest for personal gain, by neglect, by acts of malfeasance or misfeasance or nonfeasance, when they divorce themselves from the public interest, it is the public interest or the public good that suffers. And sometimes it is put in great danger.

When Moses a long time ago on Mt. Sinai - or further north - and I had the good fortune to visit that part of the world - when Moses said -Deuteronomy Chapter 1 Verse 16- "I charge your judges at that time saying, hear the causes between your brethren and judge righteously between every man and his brother and the stranger that is with him," he was not talking money. He added, in Verse 17, "You shall not respect persons in judgement but you shall hear the small as well as the great, and here you shall not be afraid of the face of man for the judgement is God’s, and the cause that is too hard for you, bring it to me and I will hear it". I am sure that there must be an Integrity entity other than yours, Mr. Chairman, which ensures that these institutions, these instructions, this moral code, handed down by Moses are observed and implemented.

But these words of wisdom and edification for good apply as well to all of us, public servants, former public servants, all Ministers, all Parliamentarians, etc.
There is another great man, apart from Moses but not in his time, who said, "If I had to choose between being disloyal to my country, and being disloyal to my friend, I hope I would be man enough not to be disloyal to my friend."

He was saying something about friendship, but he was also projecting something about loyalty to his country.

You asked - "Who would be the watchdogs?" "Who would be the watchdogs for the senior public servants?" I am sure that the Public Service Commission, does the right thing and is well charged; but somehow I think that the Integrity Commission having been not well served by its legislation, needs to be strengthened. If it is so strengthened, then I do not think that one should remove the senior public servants from the purview of the Integrity Commission.

The Public Service Commissions, the Service Commissions, have a lot of work. They are overburdened. But if this expertise is developed at the level of the Integrity Commission, then I think they should continue to look at the public service.

Part of the problem is that the Republican Constitution of Trinidad and Tobago in Section 85 refers to the office of Permanent Secretary but in a very oblique sort of way.

"Where any Minister has been assigned the responsibility"...

I am quoting:

"...for any department of Government, he shall exercise general direction and control over that department; and, subject to such direction and control the department shall be under the supervision of a Permanent Secretary whose office shall be a public office."

In my view and in my experience, the office of Permanent Secretary as the office of Permanent Secretary in the British System - perhaps we will hear of it in respect of the Canadian system, they have a different name for it - is too important in terms of the administration of the affairs of State to be merely a supervisor, in this general sense.
In the history of France in the fifties, it was the French Civil Service that kept France's administration going at a time when they could not keep a Government for more than a few days.

Next, the office: There's no office of "Head of the Public Service". It is mentioned nowhere in the Constitution or in the Civil Service Act; and, if we are going to do anything at all to improve the public service, to maintain its integrity, I think that, while we ask for an amendment in respect of the Integrity Legislation, we should have Legislation an amendment in respect of this part of the Constitution, where the Permanent Secretary, the office of Permanent Secretary is not properly represented and where the office of "Head of the Public Service" is not mentioned at all.

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Kenneth Lalla

The Integrity Commission, like the Public Service Commission and so many other Commissions, is very little known to the people, the citizens of the country. It is lamentable that those who should, at least, acquaint themselves with the Constitution of the country often fail to do so but at times seek to make statements which reveal their total ignorance of the system in which we operate and function.

The Public Service Commission has its role and function prescribed for it in the Constitution. Its role relates to the making of appointments in the Public Service, the making of promotions, the disciplining of Public Officers, the transferring of Public Officers and, of course, determining whether or not they should be confirmed. These are broadly the duties and the powers vested in the Public Service Commission as would be seen in Section 121 of the Constitution.

In order to regulate its affairs, the Public Service Commission had formulated regulations and these regulations had set out in Chapter 7 the Code of Conduct which govern the employment of public officers.

The Code of Conduct, which probably included many aspects of integrity, was really monitored by the Public Service Commission until the very well-known and all-embracing judgment in the case of Wendell Thomas against the Attorney General of Trinidad and Tobago, which held that the whole of Chapter 7 and the Public Service Commission Regulations were ultra vires the Constitution, ultra vires from the point of
view that the Privy Council Judgement held that the Public Service Commission had no jurisdiction to establish Codes of Conduct for Public Officers, since Codes of Conduct were really to be formulated or prescribed by the Employer.

The Employer determines the terms and conditions of employment of Public Officers and the Codes of Conduct which will govern their employment. In other words, whether someone could come to work untidy or with a tie or without; questions of punctuality, subordination, insubordination, as the case may be; refusal to adhere to instructions: These are terms and conditions which the employer would prescribe for his employee. And in this case I refer to the Employer as the Government.

The Government therefore manages the operations of the Public Service, whereas the Public Service Commission establishes the procedure for disciplining Public Officers when they commit breaches of Codes of Conduct. The Employer is to decide whether the employee has breached a Code of Conduct. For instance, if the employee arrives late for work every morning that is for the Employer to decide, because the Commission is never there and the Commission has no jurisdiction to supervise, monitor or instruct the Public Officer.

If the employer is satisfied with the late coming of the officer, well, so be it, the Commission can do nothing. But should the employer report a matter to the Commission and establish the facts which would really indicate that there is a breach of a Code of Conduct, then the Commission will proceed to institute disciplinary proceedings against the officer. The Public Service Commission no longer has any relationship or supervisory role with regard to Codes of Conduct. Chapter 7 has now been revoked, in order to ensure that we no longer continue to operate in an ultra vires situation.

Whether or not the Government has adopted the Code of Conduct, as it should do, and place it under the Civil Service Regulations is a matter which, I understand, is still in limbo, for whatever reason.

As to the question of integrity in public affairs, my understanding of it is that it is a new phenomenon which has emerged, not only in Trinidad and Tobago, but in many parts of the world, particularly in Commonwealth countries. Commonwealth countries have been faced with the delinquency or the lack of integrity on the part of those who seeking public office, either by way of elections to Parliament or in the Public Service.
As a result of the increased evidence of graft and bribery and corruption over the years, it was felt that some device or mechanism should be put in place in order to provide checks and balances or to control the conduct on the part of public officers. Of course, it all started with Parliamentarians. As early as, probably, 1797 - I think it was in the House of Lords - a resolution was proposed before the House seeking to compel members, who may have had some interest in any particular matter before the House, to declare that interest.

The resolution was not adopted because it was considered that the member had a personal honour. Each member would be respected for his personal honour, and because of his personal honour, he would be expected to declare his interest as and when it occurred.

We, also, refer to our members of Parliament as "honourable", and the word 'honourable', as I see it, derives its meaning - has its origin - in the personal honour that individuals maintain at a particular point in time. Whether the word "honourable" is of any value or significance today in the light of the integrity legislation we are proposing is another question; but it certainly throws doubts on the integrity of individuals, who must now be made to declare his or her interest in any particular matter, as well as his or her assets.

Moreover, the law has gone beyond this in many countries, in that the declaration of assets and interests no longer is confined to the individual member of Parliament, but it goes down to the spouse and children. And that's how the proliferation of laws affecting integrity has continued and will continue. My concern, really, is, will this stop, and if so, where? And whether legislation is the answer to ensuring that integrity and morality in public affairs is something of a reality?

The fact that one submits his annual Return, in no way precludes him from becoming involved in any other way. And this is where, it seems to me that if one were to be overly concerned with the question of integrity, apart from legislation, there should be some other steps taken, maybe by the Integrity Commission - it may agitate it - or by some other agency, to spread the issue of integrity or the concern of integrity to the schools. As the President said at the opening function - it is during the formative years that one seeks to determine right and wrong, and the question of the value of honour and integrity. Unless and until one has been able to develop a conscience that would dictate to the individual the need to differentiate right from wrong and to be able to place some esteem on honour, and integrity and
character, then the legislation would be nothing short of what we are now faced with on the issue of "to hang or not to hang".

Because, after all, we have had all these bits of legislation on our books. Statute books are now becoming overburdened with many laws with limited numbers of agencies to have law enforcement.

So that that basically, has broadened my view of this Symposium. It highlights the question of Integrity and Morality in Public Affairs. The State or the Nation would certainly not be able to move ahead unless and until we, as individuals, were able, not by virtue of the imposition of legal obligations upon us, but in conscience too, that we would be able to do what is right and differentiate the right from the wrong.

Integrity in my view doesn’t stop at the financial aspect of it. One looks at integrity as a professional responsibility, integrity in the discharge of our duties. The question is, while I may be able to submit my Returns of Income and Assets, on the job my performance may lack integrity. I might not really do what I am expected to do, but I might be more concerned with the job and what the job provides for me, rather than with discharging the duties of the office I hold.

The fact that we are here and looking towards the call by the Integrity Commission for a wider net is, in my view, a reflection of the bizarre state of integrity in public affairs and the nation as a whole.

We may console ourselves that we are not the only ones seeking to promulgate laws and regulations in connection with integrity in public affairs. We know that it is happening all over the Commonwealth and countries outside of the Commonwealth, but the real question that needs to be urgently addressed is: What steps can we take, apart from legislation, and so on, to restore that standard of integrity, equivalent to, what one may have heard at one time, that "a man's word is as good as his bond."

This is where we are; and I believe that it is essential that we address the issue. I would like to congratulate, commend and pay tribute to the Integrity Commission for having organized this Symposium because it certainly exposes us, if nothing more for the moment, to the need for integrity in our daily lives.

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Unlike the Public Service Commission, which is a creature of the Constitution, the Statutory Service Authorities Commission is not a creature of the Constitution, but is a creature of an Act of Parliament. It might be well for persons who are here present to know the reasons why this particular bit of legislation was enacted. It came about as a result of certain actions by the Port of Spain City Corporation; and this necessitated Government to enact this legislation to ensure that the rights of the employees of the various Statutory Bodies were independently looked at by an Independent Commission.

So, unlike the Public Service Commission, whose removal would require an amendment to the Constitution, the Statutory Authorities Service Commission could be removed by a mere simple majority. So, perhaps, tomorrow, if it so pleased the powers that be, they could go to Parliament and have this Commission removed. The Public at large knows very little about the duties, the responsibilities and the functions of both the Public Service Commission and the Statutory Authorities Service Commission. And I dare say that it applies similarly to the Integrity Commission; because when one hears statements, being made by persons who should know better and persons who are in authority, about these Commissions, then one begins to wonder.

Yesterday, a Member of the Panel indicated that in his country they went about to the various organizations preaching the responsibilities and the duties of an Organization or Commission which equates more or less to our Integrity Commission. More should be done with regard to the dissemination of information about both Commissions and also the Integrity Commission. If that is done, a lot of the misunderstanding which now emanates would be avoided.

The Commissions are guided by rules and regulations. The Commissions cannot go beyond those rules and regulations. If, however, as the Integrity Commission feels, more is needed because of our changing society, then it is necessary to change those rules. But, until such times as those rules and regulations are changed, we have no alternative but to adhere to them.

The Commissions are not Investigatory Bodies. I am referring now to both the Statutory and the Public Service Commissions. We are not Investigatory Bodies. Matters are referred to us. We do not go out and investigate. It is only when matters come to us that we can take appropriate action. We have been accused of delays, but we can only deal with matters when they come to us; and then we have to follow the rules of procedure.
Reference is made to the question of Permanent Secretaries being removed from the purview of the Integrity Commission, since it is felt that there are existing regulations under the Public Service Commission where they can be dealt with. I beg to differ; because I feel that a Permanent Secretary not only assists in the formulation of policy but sometimes initiates policies.

As a former Permanent Secretary, I know that there are instances when a Permanent Secretary has a great deal of influence upon the Minister. He has to prepare the Note which that Minister will have to take to Cabinet. If members in the audience, and others here, will recall the Television show "Yes", I think, "Mr. Minister" or "Yes, Mr. Prime Minister", they will see the powers, or the power, which a Permanent Secretary can exercise. For those reasons, I subscribe to the view that the office of Permanent Secretary should remain within the purview of the Integrity Commission. And also the net should be widened to include other persons.

For example, we heard the expression "tempters" in relation to corruption. I have always held the view that if I were ever a Magistrate and a person was brought before me either for attempting to corrupt someone or to receive, then the "tempter" would get a more severe sentence than the person who had actually yielded to the temptation. If you do not have persons approaching senior officers and offering them bribes, etc., etc., you would not have the situation as we have it today.

This is something that must be looked at, although you cannot really legislate. It is a matter for administrative and other organizations to deal with. As to the question of teaching the children about integrity, it must begin at home. If a child is accustomed to see things being properly done at home by his/her parents, then something must rub off.

So, I believe that questions of integrity and honesty and decency and truthfulness are matters which this country of ours has to look at and start from the home, and the school to teach the principles of honesty and decency.
It seems to me that the business of the Integrity Commission appears to be solidly seated on a false premise. The preparatory document reads:

"Experience has shown that while Legislation by itself may not achieve the goal of creating the moral man, yet its most significant achievement is that it can create a moral atmosphere within which Man can feel the constraints of Law, to keep in check his baser instincts."

Does the presence of Law really create a moral atmosphere? Is a moral atmosphere really created in that sense? Or is it not an inheritance transmitted in two ways - through the leading strings of love, manifested in family and community relations? That is the entire question.

If we adopt this position, we would get a different result, and perhaps arrive at some meaning.

We begin with the premise that Integrity is a mark of the cultivated spirit attuned to the ground of its Being, and it is a natural and inevitable flowering of that relationship.

The process of that Union is a matter somewhat different from the process of implanting accountability in public life, which is our real burden today.

One is a spiritual emanation, the function of personal transformation and union with the ultimate ground.

The other is an ethno-political goal achievable by the appropriate legal and political structures.

The relationship between them is not simply that of principle and process. We are really addressing the question, ancient yet ever new, of achieving accountability in public life.

Because of our lack of clarity we have set up a number of institutions, but have failed to do what we could, and should, to give them the required life and vibrancy;

The Service Commissions
The Office of the Ombudsman
The Public Accounts Committee, and
The so-called Integrity Commission
How can these institutions really be made to direct, monitor and facilitate the attainment of standards set out in regulation and law? Is it simply a question of merging them and giving them suitable instruments, rationalizing their points of focus and making them work in an integrated way - or is the enterprise considerably larger?

The second important question is: What level of inequity is tolerable in our public life and who determines that?

On the one hand we embrace avidly the whole spectrum of inequities involved in giving free play to the so called "market forces"; that is to say, people with money and privileged position. On the other hand, we seek to cabin and confine the public officer who may in the course of his employment wish to engage in legitimate and gainful commercial activity.

The perception of the public servant as a character whose natural condition is to be penurious, appears to be deeply entrenched, not only in a broad slice of public sentiment, but also in government's attitude and policy choices.

Now, the terrain of the draft Code of Conduct covers matters dealt with properly under the Criminal Code.

Secondly, industrial relations matters; and thirdly, other arrangements which are deemed to endow the public servant with an unfair advantage.

With respect to those issues which relate to other arrangements pertaining to unfair advantage and to industrial relations, the subjectivity, intrusiveness and advantage-taking of past regulations persist in the Draft Code.

Public Service Commissions Regulation 65 states:

"Except in the case of part-time officers, an officer's whole-time is at the disposal of the Government. Accordingly,

(a) An officer may not at any time engage in any way in anything which tends to impair his usefulness as an officer, nor may he engage in any occupation or undertaking which might in any way conflict with the interests of his Ministry or Department or be inconsistent with his position as an officer,
(b) an officer shall not engage in any trade or any professional commercial, agricultural or industrial undertaking or undertake private work for remuneration without the prior approval of the Commission.

(c) Notwithstanding that prior approval may have been given, the Commission may, at any time after notice to the officer and after holding an enquiry, prohibit an officer from

(1) engaging in any trade, professional, commercial, agricultural or industrial undertaking; and

(2) regularly taking private work for remuneration if the Commission is of the opinion that the officer's activity tends to impair his usefulness as an officer or conflicts with the interests of his Ministry or Department or is inconsistent with his position as an officer."

This should be contrasted with provisions in the American jurisdiction which do not prohibit a Government employee from engaging in outside business, but rather qualifies the individual from taking official action that would affect that private financial interest.

The Code covers an officer's private remuneration for additional skills, whether those skills are job related or not, touching on the use of his annual leave, his participation on panels and broadcasts, his contribution to publications; his indebtedness; gifts from the public; soliciting the intervention of his MP; bribery; his leaving the country without permission.

It is also very democratic in one sense. It applies to the Permanent Secretary as well as to the lowly messenger who may decide to buy and sell goods or to run a little PH to supplement his meager earnings.

Further, what the Code fails to deal with in particular, it can nevertheless catch under the all pervasive clause:

"An officer shall conduct himself at all times in such a manner that he does not bring the service of which he is a member into disrepute."
What is "disrepute"? It has been all things to the Commission.

The Privy Council in *Thomas vs The Attorney General*, clearly stated that:

"The establishment of a Code of Conduct is a matter for Legislature but the laying down of procedure for disciplinary proceedings and the laying down of penalties for various categories of misconduct are matters for a Service Commission."

The Privy Council also stated in the same case that,

"In the interest of justice and open government a Commission should publish, in a form calculated to bring to the attention of all members of the service, a list of the various kinds of misconduct which in its opinion are capable of justifying disciplinary proceedings, and of the various kinds of penalties that such misconduct can incur."

The Code then, is to be removed from the administration of the Public Service Commission into the Civil Service Regulations and under the ambit of the Civil Service Act, Chapter 23:01 which, according to its preamble, is:

"an Act to to make provision for the establishment and the classification of the Civil Service, for the establishment of a Personnel Department, for the establishment of procedures for negotiation and consultation between the Government and members of the Civil Service and for the settling of disputes, etc."

The public servant through his recognized Association can now have a say in the framing of the Code of Conduct and can question the imputations of misconduct which were formerly construed by some of his normal acts of protest.

The administration of a Code of Conduct by the Permanent Secretary is at this time acceptable to the Association, where the disciplinary measures and the right to be heard are preserved by an Independent Commission. Should there be a devolution of the disciplinary powers of the Commission to a Board of Management, headed by the Permanent Secretary, who has himself invoked the Code against the employee, then the Association would have serious reservations about such a Code being embodied in the Regulations.
Despite the rhetoric of reform, there is fear and intimidation in the Service. There is insecurity and despondency and unfair dealing, despite the creation of a number of arrangements by essentially well-meaning people.

In the final analysis, the achievement of this Commission will be a mirror image of the health of the other institutions which support our common living. We are working towards, and we are insisting on, a Code which is more spacious in its formulation, which indicates respect for the rights of the Public Officer, as well as statement of his limitations. There is a connection between monitoring the implementation of the Code and the evolution of the individual’s condition of life. We are pursuing that view and we offer it as a more integral view to be adopted by an Integrity Commission.

---OPO---

Gregory Evans

I was particularly interested in the comment that the tempter should be dealt with more seriously than the person tempted rather than that the tempted should be treated more seriously than the tempter. I was just thinking for a moment that if Eve hadn’t enticed Adam with that apple in the Garden of Eden, that’s where we would be this morning, instead of the Garden of the Caribbean.

Everyone has a conscience - some a little looser and more flexible than others. And this is why I have always thought that an educational programme is essential to get back to real fundamentals. All institutions have unconsciously removed themselves from the general public and that is why, in my opinion, so many of these institutions are under criticism by the general public. Lawyers have had a lifelong criticism. We attempted several years ago in Ontario to send Lawyers out into the community to speak to people, in a way to sell our profession; and I think it was pretty well regarded. It has, unfortunately, dropped off and that may be responsible for the great number of complaints that are made against the profession.

I served as a Bencher in the Law Society, which is the controlling and supervisory group - one of those that deal with Lawyers who can’t tell their pocket from their client’s pocket.
When I was appointed a Judge, I wound up as the Vice-Chairman of the Canadian Judicial Council. My function then was to supervise and to hear complaints about Judges. You do get complaints about Judges, and some of them are quite justified. So, I have never had much to do with the Public Service. In fact, from what I knew of it, I was impressed by the ability and the integrity of those who worked in the Public Service. I have always thought that a good, strong Public Service kept politicians from making fools of themselves on various occasions.

In Ontario we have seven agencies that are appointed by the legislature, not by the Government. They are the Provincial Auditor, the Privacy Commissioner, the Elections Finance - that is, it handles the financing of the Elections and contributions - then you have the Elections Operations, the Ombudsman, the Clerk of the Legislature and the Conflict of Interest. Now, we are not responsible to the Government; we are responsible to the legislature. We are a kind of queer animal running around as the Politicians considered us at first.

I think that that was unfortunate in my own position, because when I was appointed I was called a "watch-dog", and some guy in the press, who certainly didn't like me, published a photograph and I did look like some sort of a "watch-dog" - but of a quite undefined Pedigree. So, I had a little trouble in educating the members as they came in to see me - I must interview one hundred and thirty (130) each year - that I was there to protect them, as well as to protect the public. That took a little time, because they knew that when they were coming in they were going to have to confess to me. If they thought they were going to be facing that character whose face had appeared in the paper, I could understand that they would be a little reticent about telling him anything.

But it was a matter of education; and I find now that I have a good rapport with those one hundred and thirty members. I don't say that I have the same with the wives of all of those members because wives, too, are required to reveal their assets. And there's just no way I would want to get into a hassle by forcing the woman, the spouse, to come in and tell me what her assets are. One of them did come in and said: "If I don't tell my husband - and I don't - why should I tell you?" I said: "Lady, I can't think of any good reason why you should, but I have to tell you that in publishing the Public Disclosure Form, I'll say
Session 2: Gregory Evans

"Information is not available". And of course, the local press picked that up and she was bombarded. Everybody thought she had a million dollars and she was not going to disclose it - actually, she was poorer than I was. After that I was getting pretty good disclosures from her husband on what assets she had.

Now, as to the question of Public Servants, my view is that a strong Public Service is essential for the maintenance of good order in government in a country. I said this in my own province. There has to be some method whereby they are protected from indiscriminate firing by some government who doesn't like some policy that has been adopted by them. They must have some protection. And that's what the Privacy Commissioner does in Ontario. You could make an application now and you could find out just about anything you wanted except what goes on in the Cabinet. Apart from that, I think everything is pretty well open.

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Dr. J. O'Neill Lewis

I have been looking at the Constitution and in particular at the definitions in Section 3. "Public office" there means an office of emolument in the "Public Service". "Public Officer" means the holder of any "Public Office" and includes any person appointed to act in it. And "Public Service" means, subject to the provisions of sub-sections 4 and 5, the service of the government of Trinidad and Tobago in a civil capacity.

But there are some categories of people serving in the service of the government in a civil capacity who are apparently not public officers. These are people who serve abroad but who are not Foreign Service Officers.

So I take it that it is not to such persons that the term "public officer" applies. The constitution, apparently, is intended to confine itself to people who work here and are subject to the rules and regulations laid down by the Government for people who work here. In that capacity, who are the people who work here and who are considered to be "public officers"?

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---OOO---
And so, a Permanent Secretary who is unable to get the release of funds to carry out what his Ministry wants is berated as incompetent, uncaring and unhelpful and so on.

The marvel is that many Public Servants who were thought incompetent while they were in the Public Service, become high officials in business as soon as they retire, or immediately before they retire. Some even become Politicians and hold ministerial office.

---OOO---

Hazel Thompson-Ahyee
(Participant from the Floor)

Two or three of the speakers mentioned the fact that it was their view that integrity should not be limited to matters of finance. In considering the scope of Integrity legislation - and today we are considering the question of ethical conduct: standards, particularly in the Public Service - I should like to throw out a question, whether any member of the panel thinks that influence-peddling for sexual favours has anything to do with integrity or should come under the purview of the Integrity Commission. I mean, we did hear a speaker on the question of the temptress, but one is looking here at the tempter.

We have no legislation specifically dealing with sexual harassment. But I am looking from the point of view of what should be done with the high official, particularly today as we are dealing with the Public Service, who is using his position of power in that way. Should they come under the purview at all of the Integrity Commission?

---OOO---

Kenneth Lalla

The question is really one that seems to relate to conduct on the job. If there is some type of misconduct or improper behaviour of a particular Public Officer in the workplace, I think it can be dealt with as a disciplinary matter rather than as a question of integrity. The Public Service Commission would not have any leverage or any authority over the Minister. It would then be an issue which would have to be taken elsewhere.
Session 2: Kenneth Lalla

It may be an issue which you could take to the public. Whether integrity should encompass that type of behaviour on the part of the Minister is another question. It may also result in the institution of legal proceedings, harassment, maybe assault. The issue can be looked at more closely, rather than dealing with it as an issue of integrity under the Commission.

---OOO---

Rolend Graham

This is one reason why we are insisting that the formation of the Code be more spacious and more insightful, so that it takes account of that kind of situation.

In fact, we should state the right of the individual to work and to earn a living without being placed under siege in this way. This is why we have not, as an Association, been too quick to endorse the present formation of the Code. We want something which would take account of these things.

---OOO---

George Collymore

I want to address the point raised by both my friend Mr. Alleyne and Mr. De Peaza, concerning the position of the Permanent Secretary, vis-a-vis the Integrity Commission.

We have suggested in our memorandum that it properly belonged under the supervision of the Public Service Commission. I take the point of both these gentlemen, that Public Servants are placed in a position whereby they can and do influence policy. In fact, I do recall my friend and brother, Dr. Lewis, making the point yesterday whereby it was perceived that these gentlemen in their dealings with overseas people, are subject to the temptation of receiving bribes. But our point is that, continuing on what Mr. Lalla was saying, there is need for a Code to be established so far as the Commissions are concerned.
Our view is that in that Code, the principles that would be enunciated would not be that very different from what would be placed for integrity legislation: same points - conflict of interest, misbehaviour in certain things could find their way in the Code which the Commission would address. There would be differences, of course, dealing with the subject matter; but we feel that, in that context, they can deal with the very problems which would arise before the Integrity Commission.

What we have been saying is that an Integrity Commission should be given the power, additionally, to be able to advise so far as concerns breaches of integrity standards, whether they arise under the Integrity legislation or whether they arise under legislation which should come into being in respect of the Public Services and the other Commissions. That is our point. It is not that Permanent Secretaries should not be supervised.

What is the point? For instance, a Permanent Secretary’s salary is known. There is no point really, in submitting a Return of his Income and Assets. In the case of a person coming into public life, his assets are not known; his salary is not known, but we know what a Permanent Secretary earns; and if the purpose of the Return is to see whether there has been any increase due to any subversive activity on his part, well then we say that their Commission should have the responsibility for monitoring that. That is my submission.

---OOO---

Dodridge Alleyne

I am afraid I continue not to agree with the Chairman of the Integrity Commission.

I am sorry if in dealing with Permanent Secretaries and Chief Technical Officers, etc., they have placed such a burden on the work of the Integrity Commission that the Integrity Commission does not wish to have anything to do with them. By all means the Public Service Commission will treat the Permanent Secretaries and Chief Technical Officers in the normal ways of discipline for infringements in the workplace. But what I said, and I think I still agree, if we have built up within the Integrity Commission such a body of knowledge and expertise in handling these matters, I see no justification for removing this office of Permanent Secretary.
In Canada, what do they call them? Is it Deputy Minister? Deputy Minister is what they call them. The Permanent Secretary and the Minister, in my view, in my experience, have to collaborate in the formulation of policy. The Permanent Secretary is a judge in a very special way, and I think that you should not remove him, remove that office. I am not sure why you want to remove him, if you want to remove him because he is a Public Servant. I think you should maintain him.

Now, in the old days of confidentiality, you had "confidential files". You had files which only certain persons could see.

We had a situation in which officers, public servants, took a certain oath of secrecy. I do not know whether it still obtains but this is how it was. When I came to the public service; even as a lowly Clerk, Second Class Clerk, I had to take it. I worked in the Colonial Secretary’s Office. My colleague here was in the Department. And I would like to see the same stringent, integrity practices and all that you do as you build up this code of conduct, this code of integrity, the way you proceed, how you set out to gain information.

And, please, everybody should know - the salary of a Minister is as public as is that of a Permanent Secretary. But I am afraid I will not perhaps proceed at this point. Maybe we should sit together; it might take a little "round-table" to do it.

---OOO---

Clyde Weatherhead
( Participant From the Floor)

As regards the point that we are on about the Permanent Secretaries and whether they should be excluded from Integrity Legislation, Mr. Alleyne has made a very pertinent point. If what is being said is that their earnings are publicly known, so, too, are the earnings of elected officials.

The point is that whatever is in the Regulations and the Act of our Public Service and the role of Permanent Secretaries, those roles that they now perform don’t entirely conform to what is written in this document.
Permanent Secretaries exercise even some aspect of the disciplinary power of the Public Service Commission. So they are, in a sense, not just the same as an ordinary public servant. In a real sense, if we go to the Ministry of Energy, etc., the opportunity which the Minister has is the same that the Permanent Secretary has, in terms of the opportunity to do he same wrong.

So, I think that it is a question we cannot simplify. We need to examine not what is written in the statute about the Permanent Secretary but what is today's reality; and Permanent Secretaries are not just other "public servants". In that sense he is set apart. The fact, that the salaries of the Permanent Secretaries are even determined by a body other than the body that settles the salaries of the rest of the Service recognises that they are set apart. Their salaries are determined by the Salaries Review Commission.

It is not a simple matter of simply saying that they are "public servants" like the rest, and therefore they fall under the Public Service Commission.

So when we talk now about public servants and integrity, there is the Code of Conduct which has to be negotiated; there is the question of integrity in terms of the kinds of matters the Integrity Commission has to deal with; and I think there has to be a difference of treatment for those matters with regard to the persons higher in the public service who have the same opportunities as the officials.

---OOO---

Earl Lewis
(Participant from the Floor)

At the beginning of this session I did ask that there be some special comment on the relationship between the Permanent Secretary and the Minister. This is germaine to this discussion. But everyone seems to put it aside and leave it alone. It is at the level somewhere between the Permanent Secretary and the Minister that the "goodies" are eventually taken to Cabinet, if it does get to Cabinet at all. If we are talking about "integrity and the public service", all of these forty-nine or fifty thousand public servants, in their view they come under the Permanent Secretary. And if we cannot decide whether the Permanent Secretary is "fish" or "fowl" or what his relationship de jure or de facto is with the Minister, the Parliament, how can we think of solutions to the problem.
What we are hearing are constraints that these people face in their various offices. I am about solutions; and I think it is essential, for a solution, to understand that key factor - what is the relationship de jure and de facto among the Permanent Secretary, the Minister and Parliament?

---OOO---

Kenneth Lalla

The system under which we function is the "Westminster system". The Westminster system provides for the Ministers and Permanent Secretaries in our system. Mr. Alleyne did refer to Section 85 (1) and (2) of the Constitution, which is very succinct, and says that:

"Where the Minister has been assigned responsibility for any department of Government he shall exercise general direction and control over that department, and subject to such direction and control the department shall be under the supervision of the Permanent Secretary whose office shall be a public office."

"For the purposes of this section, (a) two or more Government Departments may be placed under the supervision of one Permanent Secretary or (b) two or more Permanent Secretaries may supervise any department of Government assigned to a Minister."

You would also know that there is Section 121 - (3) to (5). That gives the Prime Minister a veto, in that if the Public Service Commission proposes the appointment of a particular person to the office of Permanent Secretary, the Commission must consult with the Prime Minister who may signify his objection. If the Prime Minister vetos a proposed appointment by the Public Service Commission, then the Public Service Commission cannot make that appointment because it’s all constitutionally so provided.

What the Commission would then do is to proceed to put forward another officer who is eligible and who is deemed to be suitably qualified to be promoted, or to be appointed, to that post.
The question of what is the relationship between a Minister and a Permanent Secretary, as I understand it in constitutional law, is that in England a Permanent Secretary-as it is supposed to be here, too-is really the person who carries out Government's policy. The Minister formulates policies and the Permanent Secretary is there, as head of that department, to carry out those policies.

The question whether he agrees with the policy or not is not really important. He has no choice. He may express his views to the Minister, a contrary view maybe; but at the end of the day, it is really his duty and responsibility to carry out that policy. So that what goes on between the Minister and the Permanent Secretary is really a Civil Service matter which, according to the Constitution and the judgment in Thomas is the insulation of the Public Service, from the Permanent Secretary coming right down, from political influence and political interference.

It is a question of whether or not the Permanent Secretary would allow himself to be compromised in one way or the other. That's a matter for him. When you make an appointment of an individual to a post he either has integrity or he does not. If he doesn't understand what his role is, then he should be advised, or he should seek advice. But the way the system is supposed to function is that the Minister decides on policy, the Permanent Secretary executes it.

If the Permanent Secretary disagrees, well, there is a problem. Under the Constitution, Section 121, (3) to (5) the Prime Minister has the authority or the power to transfer a Permanent Secretary from one Ministry to another. The Commission does not do that, it's the Prime Minister who has that power.

But the Civil Service is supposed to be totally independent of the political directorate; and the political directorate really ought not to interfere with the Public Service. That is why you have had situations arising.

The Public Service Commission had a case in point where the Licensing Office Commissioner of Transport had either to go on holiday or go on leave for whatever reason. The Minister made an appointment, a purported appointment to that office; but he had no authority to do that. Although the Permanent Secretary may have had to work with the Minister in probably agreeing or not agreeing with what the Minister was doing, the Minister was clearly acting outside of his jurisdiction because the posting, transferring or appointment of public officers rest in the Public Service Commission.
Session 2:

Kenneth Lalla

To what extent there may be collusion or there may be compromise of one's position as a Permanent Secretary vis-à-vis a Minister, it's a matter for the individual. But if you were to take the principle of law, then the Permanent Secretary should advise himself that he is really an independent person. Of course, traditions and culture and practice are entirely different things.

---OOO---

Nolda Williams-Pierre
(Participant From the Floor)

My question today is, since you are on "Integrity in the Public Service", I want to know if an officer, who has been brought up on disciplinary charges by someone in the service, has been exonerated by the Service Commission, what do they do to that person who has created that sort of mischief?

---OOO---

Kenneth Lalla

Under Section 90 of the Public Service Commission Regulations, the Head of the Department reports an Act of indiscipline or misconduct to the Public Service Commission, and also simultaneously appoints an investigating officer to investigate the allegation. The officer concerned is informed of all the facts, and the disciplinary machinery is put in place, in operation. If at the end of the day the officer is exonerated before a Tribunal, well, then it shows that the facts did not sustain the type of allegation. Therefore, there was not sufficient evidence upon which the person could have been found guilty.

That is where it ends. There is nothing one can do. If, however, the officer was mischievous and went out of his way to do that, the Commission is never there to determine that. The Permanent Secretary as Head of the Department should be able to evaluate the issues and decide whether or not that person should also be put on a disciplinary charge.

---OOO---

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There are only about thirteen, fourteen or even twenty Permanent Secretaries. It is probably because of the interfacing of the Permanent Secretaries with the Political Arena that we find this area of focus.

Some years ago when, the question of Chief Technical Officers came up, the question was asked, how do Chief Technical Officers gain access to the Political Directorate? It was stated that the Permanent Secretary has direct access to the Minister, the Chief Technical Officer has access to the Permanent Secretary. But we heard that the Commission is suggesting that you remove Permanent Secretaries from the Integrity legislation. We have divergent views from Mr. Alleyne. Mr. Lalla made the point that the Permanent Secretaries are dealt with separately from the rest of the Public Service, as they come under the Salaries Review Commission. The fact is that the Permanent Secretaries are a different kettle of fish, even though under the general term of Public Officer.

The major area of concern is that the Permanent Secretary may very well be just the cutting edge between the political body, the politicians, and the Public Service. I would really like to see in any sort of legislation - any sort of legislation, any sort of organization - that the politicians be separate and apart from the Public Service. Let us deal with the Public Service separately, even if we have to put separate mechanisms which deal with the cutting edge of the Permanent Secretaries. Once you do that with the Permanent Secretaries, you will find that sooner or later you will have to come down, further down the line. There are people within the Public Service who may have more influence, who may be more critical - they might not be bigger - they might be more critical than some Permanent Secretaries.

The Commission has said in its memorandum that the Permanent Secretaries are executors. In fact, we agree with that - I think it is known - that Permanent Secretaries are holders, makers, framers, initiators of policies. What we have in Trinidad, unfortunately, is that the Government, the Cabinet, do not only make policies. In fact, the complaint, as Mr. De Peaza said several times, is that the Cabinet deals with a lot of matters, many thousands a year - in fact, they even said that they believed they were not trivial. It is not so much a matter of policy, it is a matter of getting a decision, why you go to the Cabinet.
Permanent Secretaries do have a lot of influence; but that does not take away from my main point that I would like to see - Public Service apart from the politician.

---OOO---

Honourable Andrew Cassimire
(Participant From the Floor)

I'm a Member of Parliament, I am also an ex-public servant - thirty two (32) years in the Public Service. So I represented the Public Service Association on the one hand, and the Joint Industrial Council and Government on the other side.

On the question of Permanent Secretaries and their interface with the politicians, we have heard about *de jure* relationship; that is, to supervise and to manage the Public Service. But there is also a *de facto* side which operates between the Permanent Secretary and his Minister.

The Permanent Secretaries, sometimes are tremendous brokers of power. Each Permanent Secretary will have a special relationship with the Minister, dependent of course on whoever is the particular Minister. There are no hard and fast rules as to how they should interface. The Minister will determine, most times, how he and his Permanent Secretary interface; and that will depend upon his own skills; his own background, etc.

I am one of those who advocated that Permanent Secretaries should be included in the Integrity net - the same as the politicians - because they are exposed. They are more exposed than the politicians when it comes to policy-making, because they start to initiate policy, bringing policy from the root. A Minister will be in difficulty if he ignores the advice of a Permanent Secretary. If he wants to move that wall and the Permanent Secretary tells him "No Sir," he shouldn't move it, he should think again, and think again. The Permanent Secretary brings with him a wealth of experience; a wealth of technical knowledge that he develops from his entire Ministry. Some of us who come as politicians, come bare-handed and we depend heavily on our Permanent Secretaries, at least in the first one or two years, until we gather our own experience and start to make our presence felt or independence felt in the Ministry.
Our Permanent Secretary is here and today I want to publicly commend him for assisting us in running the Ministry and giving us the kind of advice that assisted the relationship between Minister and Permanent Secretary.

Some people seem to misunderstand the terms "Permanent Secretary" and "Public Service". The Permanent Secretary is not the Public Service. He is the linking pin between the Minister and the Public Service. Sometimes he is "fowl" and sometimes he is "fish". He has two hats to wear. If he wants to survive; he has to learn how to coax and to influence his Minister in a certain kind of a way. When you have lost that touch with your Minister, 'crapeaud smoke your pipe'. No matter what law and what supervision and what legality you have, 'yuh dead'. So the Permanent Secretary must live and he must survive. That is the reality of the position of the Permanent Secretary, as far as I know.

On the point raised by Mrs. Thompson-Ahyee about the "tempter" and the "temptress", I have always advocated that if an officer in a Ministry gets what he or she does not deserve, that is "corruption". And if a person uses other than talent and skill to get any form of promotion that is "corruption".

It is not always a "tempter", there is of course also a "temptress" too. There cannot be a "tempter" without a "temptress"; and some of the temptresses use that facility to grease the wheel of promotion. Sometimes in private companies, as well as the Public Service, you see the boss's favourite getting up the ladder, and you want to know what the talent is - she works late, and she works late on evenings! That is a form of corruption. It touches on integrity and morality in public affairs; it touches deeply on that. And I want to let this Symposium know, that I am very, very, happy that the Integrity Commission could have staged such a Symposium.

Perhaps I should let you all know that I have broken history in this country. I am the first officer to be reported by this Integrity Commission for not filling in the form to send to them. Perhaps I might be the only one. As it turned out, reporters hounded my door to see if I have a million, what I have stolen? They found out that my assets were less than those of a poor hungry Public Servant.

But I admire the courage of the Commission, because they are doing their work and they are doing their work independently of political interference. People asked me "but how they could do you that? You are a member of the Government". That is not the point; and the Integrity Commission proved the point of their independence by publishing that I didn't do what I ought to do. I am pleased so say today that all has been put right. The Returns have been completed and all is well and happy between myself and the Commission.
Session 2: Justice Kelsick

The discussions have been very helpful. A lot has turned on the question of the comparative roles of the Integrity Commission and the Public Service Commission, more especially in regard to Permanent Secretaries. We had the pros and cons ventilated as to whether or not the Public Service - the Permanent Secretaries - should be subjected to the jurisdiction of the Integrity Commission, as well as of the Public Service Commission.

It may be significant that in Canada the Permanent Secretary is designated "Deputy Minister." It shows the close analogy between the functions of the two; and that, I suggest might be a pointer in deciding as to whether or not the Permanent Secretaries should be subject to the Jurisdiction of the Integrity Commission.
SESSION 3

INTEGRITY AND ACCOUNTABILITY IN PUBLIC AFFAIRS
SESSION 3
THE MODERATOR AND PANELISTS

Moderator

SIR ELLIS CLARKE: TRINITY CROSS

Last Governor-General and First President of Trinidad and Tobago; FIRST AMBASSADOR to United States of America and to Mexico; Permanent Representative to the United Nations and to the Organization of American States. Appointed Chief Justice in 1961; and later that year, Constitutional Adviser to the Cabinet until Trinidad & Tobago’s Independence in August 1962. From 1954 to 1961, served successively as Solicitor General, Deputy Colonial Secretary and Attorney General. Was called to the BAR at Gray’s Inn, after studies at St. Mary’s College, Trinidad and London University, England.

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Panelists

THE HONOURABLE WENDELL MOSTLEY

Member of Parliament
Republic of Trinidad and Tobago


Silver Medallist - 400 metres - 1964 World Olympics (TOKYO)

Bronze Medallist - 4 x 400 metres Relay - 1964, World Olympics (TOKYO)

Gold Medallist - 440 yards - 1964 Commonwealth Games (Jamaica)

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Panelists

WADE MARK

Member of the Senate of the Republic of Trinidad and Tobago.

Chairman of the Parliamentary Opposition, United National Congress (U.N.C.). Currently, Leader of Opposition business in the Senate. Graduate of the University of the West Indies, St. Augustine, Trinidad. Serves as Education and Research Officer of the Bank and General Workers Union and Assistant General Secretary of (NATUC) National Trade Union Congress.

---OOO---

MARIE ANGE KNIGHTS, FCCA, ACCA.

Assistant Auditor General in the Auditor General’s Department of the Republic of Trinidad and Tobago. Graduate of Leeds Polytechnic in Yorkshire, England and the University of the West Indies, St. Augustine, Trinidad.

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PHILLIP MARSHALL

Managing Partner of the firm Ernst and Young, Chartered Accountants. Is a Fellow of the Institute of Chartered Accountants of England and Wales. Director of Development Finance Limited. Served as lecturer and Examiner of the Executive MBA Programme of the Institute of Business of the University of the West Indies, St. Augustine, Trinidad.

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SESSION 3: OVERVIEW

Errol Matthews
Senior Tutor
Hugh Wooding Law School

This session discussed accountability as it involves the explanation, and justification of Government's decisions, actions or failure to act and the systems of mechanisms, checks and balances that are necessary to ensure the effective fulfillment of such government's actions.

Thus the questions posed were:

(1) (a) What is the nature of governmental accountability?

(b) What are the means for assuring accountability by the government?

(2) How can Integrity in Public Affairs be achieved?

Arising out of this panel discussion the following principal observations and suggestions emerged:

(a) Government performance and activities must be measured in terms of accountability that is answerable to the electorate, directly and indirectly.

(b) The means for assuring such accountability are by:

i) The introduction of more appropriate and other legal provisions.

ii) The dissemination of information to the public.

iii) Effective accounting/auditing methods which will include management and performance audit.

iv) The submission and disclosure to the appropriate Commission, and the public of declarations of interest by persons holding political office.

v) The public screening of persons recommended to fulfill high offices.

vi) The establishment of an Equal Opportunities Commission.

viii) The exposing of fraud and improper behaviour in the private sector.

ix) Education programmes in the schools.

(c) The various roles and functions of the Minister of Finance monitor the use of public funds and bring to the public’s attention incidents of waste and mismanagement. In addition accountability is scrutinised through the device of parliamentary questions and debates, and responses to questions by a Select or Standing Committee and ministerial statements.

(d) These legislative provisions and regulations which confer authority for the collection of revenues, and the disbursement of expenditure, including the financial procedures that must be adopted, and an independent audit of the country’s accounts by the Auditor General.

(e) Whereas the criminal law provides for sanctions and penalties for criminal behaviour by persons exercising public functions, there are no or no similar effective systems or legislation introducing appropriate sanctions in respect of improper or dishonest conduct or behaviour.

(f) Although, the Integrity in Public Life Act, 1987, addresses some of these matters of concern it is recognized that the present Integrity Legislation needs to be evaluated in terms of these and other lacunae.

(g) Financial reporting should demonstrate the accountability of government for the financial affairs and resources entrusted to it.

(h) This objective could be achieved through the introduction of Compliance and System-Based Audits and the Value for Money Efficiency or Comprehensive Audits. These measures will, necessarily, be in addition to the independent and objective view of the Auditor General as will be reflected through financial statement audits providing information useful to Parliament. These measures will reveal the extent to which government programmes fulfill their goals.
On this question of accountability one of the panelists offered the following suggestions and observations:

1. Amendment of the Constitution of Trinidad and Tobago to provide for Parliamentary Committees to monitor the exercise of the functions and duties of Service Commissions and Government Departments.

2. Appointments to high office, including Chief Justice, Judges, Commissioner of Police, Commander of the Defence Force and Members of the Service Commissions to be conditional upon subjecting these appointees to public scrutiny, by a Parliamentary Committee on Law and Justice.

3. The establishment of a Parliamentary Committee on Equality of Treatment or an Equal Opportunities Commission to investigate allegations of unequal treatment and to make recommendations to redress same.

4. The establishment of a Freedom of Information Act to give effect to a general right of access to official information by the press and the public.

5. The scrutiny and assessment by the Director of Contracts of the terms and conditions for awards of contracts by the Government and the grant of any licence or permit by a government department, statutory body or even a company under government influence.
Accountability involves the explanation and justification of one’s decisions, actions, or failure to act in connection with any matter for which one has accepted responsibility. Accountability is the forerunner to control, as actions which deviate from that expected, may be altered by the intervention of the person/s to whom the accounting is being given.

The significance of accountability can be best appreciated by considering a society in which there is little or no accountability. It is my view that in such an environment, the Law of the Jungle would exist and it would, by and large, be a case of every man for himself. A society without accountability would be in a perpetual state of chaos, disorder and lawlessness. Accountability, therefore, assists in bringing order and fairplay to a society and is one of the means for ensuring that the welfare of the entire community is put before the narrow and self-serving interest of any individual or group of individuals.

A Government is comprised of Ministers, each with the responsibility for a Ministry or other Governmental function, and it is these persons who must be held accountable for their performance, or lack thereof. The level of accountability of a Government can only be as good as the accountability of the parts which comprise the whole.

In his book 'Parliaments of the World', Valentine Herman has defined three (3) types of ministerial accountability, as follows:

- **Personal financial accountability**, which is the obligation of the Minister to make good any financial harm caused to the taxpayer which results from his/her action.

- **Penal accountability**, which is the obligation upon the Minister to answer for criminal actions, such as treason, misappropriation, extortion, corrupt practices and encroachments upon the freedom of the individual.

- **Political accountability**, which is not founded on an objective definition of civil or criminal offences but, rather, on subjective factors which are assessed by Parliament.
Our discussions will centre around the concept of political accountability and its operation in Trinidad and Tobago.

Taking a closer look at political accountability, Herman says - and I quote:

"The scope of political accountability is vast if we apply it to any act performed by a Minister in the exercise of his duties, in the carrying out of his policies, his actions or failure to act, and even his intentions. A Minister's conduct is not regarded in the light of its legality, but simply on his political wisdom in the face of views expressed by Parliament.

Political accountability implies, for practical purposes, the obligation on the part of the government constantly to act in accordance with the views of the majority in Parliament. What gives this obligation political force, is the threat of loss of office by the Minister or by the whole Cabinet if what is done is not approved by the representatives of the people."

This concept of political accountability has been a part of parliamentary life in Trinidad and Tobago. Ministers have been known to be fired, demoted, or sent into exile for performance which deviated from standards expected by the society, the political directorate and the Parliament.

At present, there are a wide range of measures which facilitate Government accountability. Most of these measures arise out of provisions in our Constitution.

There is the question of debates on Bills introduced into Parliament by the Government where, of course, the Government must give an account for, or reasons for wanting to bring the Bill to Parliament; Questions to Ministers in Parliament; Confidence Motions; Debates on matters of urgent public interest. We have the Public Accounts Committee; the Public Accounts Enterprises Committee; the office of the Auditor General; the office of the Ombudsman; and the Integrity Commission.

Within recent times, we've also seen new forms of government accountability developing. These include the appearance of Ministers on talk show and panel discussions for the purpose of explaining the Government's initiative on a wide range of matters.
I have indicated earlier that the scope of political accountability is vast; but the mechanism and means for ensuring government accountability, as I have just shown, seems to be just as vast.

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Honourable Wendell Mottley

Public confidence in Government's integrity and accountability in public affairs is of paramount importance. Without it, societies flounder. We need to only look around the world to understand how true that is.

Legitimate government, in the eyes of the public, is a Government that not only displays expertise and entrepreneurship in the discharge of Government functions, but also accounts for its stewardship. How can the public ensure that those ideals are not compromised in practice?

If there is accountability in public affairs, the public's expectations, that Government will operate with due regard for economy, efficiency and effectiveness, can in fact be realized. While integrity in public affairs is distinct from accountability, it can be said that if Government operates in an environment which calls for accountability, there will be little room for integrity standards to slip. And that is a major point. Government must at all times call on all of its membership for accountability. Of course, the society at large must be making those demands as well.

In our political system, a Government is accountable to the electorate directly and then indirectly through Parliament. Parliament can hound out the Government, hound out the particular Minister and hold him to his stewardship.

Persons who wield power in Government are expected to account, not only through compliance with financial accounting procedures, but by giving an account of their policies and performance. It's not just the narrow numbers that matter.

I will give an outline of the existing legal and constitutional framework, which provide checks and balances on executive power, and are intended to result in the deliverability of accountability.
Parliament has a constitutional duty to hold the executive to account. One important manner by which this is done, is through Parliament's scrutiny of public spending. For example, the Constitution requires the Minister of Finance to prepare Estimates of Government Expenditure which are included in an Appropriation Bill, which is laid in Parliament. Members of Parliament are given the opportunity to ask questions pertaining to Government’s proposed expenditures for the upcoming year, and call upon the Executive to give further and proper explanations.

The Constitution also establishes two committees of Parliament - the well known Public Accounts Committee and the Public Accounts (Enterprises) Committee. Their duties are to examine the accounts of the country, the independent report of the Auditor General, and any other reports submitted to them by Parliament. Their findings are reported to Parliament, which may take any action it deems necessary. The recorded history of our country is such that in the Session especially between 1981 and 1986, these Committees were especially active and were extremely vigilant; and they had teeth and consequences flowed from their work.

The Public Accounts Committee, as an instrument vital to accountability, brings together the accounting officer, the Treasury, the Auditor General and Parliament in an exercise geared to ascertain that public revenue due has been collected and that public money has been spent in accordance with approved policy.

The Committees have the power to call upon Members of Government and the State Enterprises to appear before them to answer questions truthfully and to produce documents. They can affect the processes of Government, if members maintain a non-partisan outlook and subjugate their political affiliations at committee meetings. The Committees can monitor the use of public funds and bring to the public’s attention incidents of waste and mismanagement. Such a check provides the public with confidence that Executive spending is being monitored and that any departure in the use of public funds from the norm can be the subject of public debate in Parliament with all that flows from the media, etc.

Even so, with the success of these Committees, Government is at this stage holding discussions with the Parliamentary Opposition to extend Parliamentary scrutiny of the Executive by setting up, in addition, Departmental committees, including such committees on Finance, National Security etc. This matter is still under discussion.
There is another aspect of accountability, which involves the public's "right to know". There is a general feeling that the Westminster system of Government promotes a culture of secrecy, which inhibits the dissemination of information, that sometimes bears no respect to the normal claims that it is being hidden because of national security or confidentiality.

Parliament is, once again, the arm of the State which is the forum to break down these perceived barriers. The system of Parliamentary Question and Answer, allows the people's representatives to ask questions of Ministers which may arise out of their dealings with their constituents, or contacts with lobbyists.

Ministers have a duty to answer promptly and to provide information that is true and not misleading.

Parliamentary answers, therefore, are an integral part of the constitutional framework and are in practice a real check on abuse of the democratic process by the Executive. Accountability to the public is fostered by every single pronouncement of a Minister to a Parliamentary question, a debate on the floor of the House, or a response to a question by a Select or a Standing Committee or in Ministerial statements made before Parliament.

Freedom of speech which is enjoyed by Members of the Parliament is another check on the Executive's use of power. Members of Parliament, as representatives of the people, can discharge the functions of their office without fear of prosecution, civil or criminal. If members of Parliament perform their jobs efficiently, they can be a powerful influence for open government.

In the same way, the work of journalists in the society can provide a regular open conduit of information from Government to the people. The public will then be able to judge the performance of the Executive and to decide whether their policies and programmes encourage public confidence. Sometimes, indeed, the intrusion of the television cameras in Parliament causes members of Parliament, not only Ministers, a great deal of discomfort.

This Government is committed to freedom of the press and freedom of expression, as enshrined in the Constitution. The role of the media in the accountability process is recognized as meaningful. Dissemination of information to the public, contributes to accountability in public affairs.
The law which governs the financial accountability is to be found in the Constitution, Exchequer and Audit Act Chap. 69:01 and the Financial Regulations and Instructions.

These laws provide, among other things, the legislative authority for the collection of revenues, the disbursement of expenditures, the financial accounting procedures to be followed, and the independent audit of the country’s accounts by the Auditor General.

This Government is committed to achieving accountability in public affairs, not only by complying with the requirements of the law, but by keeping the public informed of its policies and performance. Especially during this term of Parliament, with directions from the Prime Minister, Ministers have been called upon to make regular ministerial statements and generally to keep the Parliament informed.

We have given a commitment to initiate changes in existing procedures in Government, which will result in greater accountability. One example is the move towards Public Service Reform, which will, among other things, require a greater measure of administrative responsibility and accountability to the public.

The priority areas which are being reviewed in the Public Service are:-

1. organization and structure of the service;
2. the financial management and budgetary systems; and
3. disciplinary procedures.

So that it is not only a matter for Ministers.

In addition, all Ministries have been asked to develop a five year strategic plan and an annual plan against which they will be evaluated.

The introduction of financial legislation is another dimension that the Government is clearly showing the need for financial scrutiny in areas outside of the direct purview of government.
In this regard, the Financial Institutions Act of 1993 was recently passed in Parliament, amendments to the Insurance Act and the Securities Industry Act will also soon be brought to Parliament, again, to make sure that there is greater scrutiny over aspects of public life that have to do with the public's funds, not just the Government's funds.

I turn now to Integrity in Public Affairs.

How can integrity in public affairs be achieved? I have suggested that an environment which requires those involved in the decision making process to account, is, in itself, a major advance when it comes to the narrower matter of integrity, especially personal integrity.

It is a fact that, under cover of general darkness, personal integrity suffers. Where there is light, generally people of looser moral commitment find that they are forced to tow the line. It is a fact that it is always possible for power to be abused. It is therefore necessary that the law should provide a means to prevent abuse and the whole climate in which a country operates should be of the same direction. In this regard, the role of the Parliament and the Judiciary amounts to an extensive system of protection.

In the area of integrity, the criminal law provides penalties for fraudulent and improper behaviour by persons exercising government functions. However, it is recognized that there are certain areas of improper conduct in public affairs which do not generally attract sanctions.

Integrity Legislation targets the areas of behaviour which are outside the ambit of the criminal law and is aimed at achieving morality in public affairs by providing the sanctions of law against acts contrary to public morality.

The Integrity Commission, which came into being following the enactment of the Integrity in Public Life Act 1987, has stated that these areas of misconduct in public office which do not now attract any sanctions under the Act involve -

1. conflict of interest;
2. use of information gained in public office for private gain;
3. use of public office to further private interest;
(4) the carrying on of business incompatible with public office; and finally
(5) acceptance of office in the private sector immediately after retirement involving confidential information obtained as to Government policies while in office.

This is a whole realm of conduct which a lot of Trinidadians and Tobagonians assume to be their natural right to pursue. Until recently, there have been no sanctions against it. When we read of what goes on in the United States under the close scrutiny, for instance, of the Securities and Exchange Commission, we understand how life there is far more ordered in these areas than we have it here.

People spend lengthy, lengthy jail sentences for lots of acts that a lot of Trinidadians and Tobagonians haven’t even perceived in their own actions here as wrong-doing.

Can the law create a moral man? The Integrity Commission has concluded that while integrity legislation may not itself achieve the goal of creating the moral man, its most significant achievement is that it can create a moral atmosphere within which man can feel the constraints of the law to keep in check his baser instincts.

This Government in its 1991 manifesto re-affirmed its commitment to integrity in public life and proposed a review of the Integrity in Public Life Act 1987, with a view to strengthening the Integrity Commission to empower it to better discharge its functions.

The Commission’s annual reports to Parliament which contain its recommendations to bring about more effective and comprehensive integrity legislation are now being considered. It is recognized that the present Act is lacking in many areas and that improvements are necessary for further protection of the public.

The Honourable Prime Minister Patrick Manning, recognizing the importance of accountability in public affairs stated earlier this year that “Accountability in public life not only means that everything must be above board”, and I am quoting here, “but must be seen to be above board.” Persons at whatever level, must account for their stewardship, whether it is through evaluation of their stated performance targets or through proper accounting procedures. In either case, I believe that higher levels of accountability at all levels can and must be achieved.
The Government also feels that integrity in public life must be achieved. In this regard, the creation of new offences and the expansion of the list of persons who will be called upon to account under Integrity Legislation, as recommended by the Integrity Commission, will be a further step towards achieving greater integrity and accountability in public affairs.

I hope, I have said enough to show the broad scope of accountability; that it is not just for Ministers, it goes through and down through the Public Service. Similarly, that integrity is a matter affecting not only Ministers, but a wide range of people in public life.

I know that Trinidad and Tobago has found it comfortable to believe in the fiction that it is only politicians who are exposed to greed and temptation and have acted irregularly along those lines. That would be a great error.

I can certainly remember, in the leading-up to the 1986 elections, that that was a popular fiction, perhaps justified by some events; but I think that events since then should have taught Trinidad and Tobago that the whole society is equally open to temptations. Whereas Integrity Legislation must have some focus, in that it must be practical, and cannot be so scatter-shot and so widely focused as to then become impractical.

Nevertheless, just too narrow a focus on politicians or Government Ministers would be misplaced.

I conclude by pointing out that though I cannot recall any particular politician in recent times who has been called before the Courts, I know of a Magistrate who has been. I say that not out of any defence of politicians, but as a clear indication that as a society we are maturing and we should understand that temptation is not restricted only because a man follows a certain career path.

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Phillip Marshall

I intend to address the question of integrity and Government accountability along the following headings; Leadership, Culture and Integrity; Objectives of Government Financial Reporting; Limitations to our Existing System of Government Financial Reporting; The need for Enhanced Performance Reporting and Value for Money Audits; and finally, Organizational Change and Quality Management in our Public Sector Organisations.
Leadership, Culture and Integrity

We should all know the meaning of integrity, but before going into leadership and the role of leaders, let me attempt to define for you my use of the word 'culture' as I may be referring to this word quite often. Culture is defined as shared assumptions and beliefs collectively held by a particular group of people, so deeply held, in fact, that they may be actually unaware of how these subconscious beliefs guide their day-to-day actions.

There are many groups of individuals with different beliefs and, therefore, many different cultures operating in any national entity.

Now, if, over the years, we have developed a culture of one in which "the Government must provide," or one in which the "people who go into politics are dishonest," maybe we will unwittingly feel that we should not be called to account, for example, as individual citizens when we have to pay our tax. You know, the excuse could be, 'Why should we pay? It is going to be wasted.' So that is just an example of, maybe, some aspects of negative culture.

The Role of Leaders in Integrity

"Organizational cultures are created in part by leaders, and one of the most decisive functions of leadership is the creation, the management, and sometimes even the destruction of culture. One could argue that the only thing of real importance that leaders do is to create and manage culture and that the unique talent of leaders is their ability to understand and work with culture. If one wishes to distinguish leadership from management or administration, one can argue that leaders create and change administration, one can argue that leaders create and change cultures, while managers and administrators live within them."

A key role of governmental leadership therefore is the "role model" it must portray in the conduct of its affairs in the public interest. Its actions must foster the embracing of shared visions of integrity and trust by its citizens who perform key decision-making functions at various levels within public or private sector institutions.

High standards of accountability by Government therefore underpin trust and quality of relationship between itself and the citizens it serves.
The following is a quote from Peter Senge in his book, *The Fifth Discipline*:

"Today the primary threats to our survival, both of our organizations and of our societies, come not from sudden events but from slow, gradual processes; the environmental decay, the erosion of a society's public education and parenting system, increasingly obsolete physical capital or decline in service quality are all slow, gradual processes."

So is a falling standard of integrity. Let me just deal with a parable you may have heard of, the parable of the green frog. It is about how processes and falling standards slowly imbed themselves, and we are not aware of it.

If you take a frog and you attempt to put it in a pan of boiling water, the frog's defensive mechanism would make it jump out of that boiling water to save itself. However, if you put a frog in a container of room temperature water, tepid water, and slowly turn up the heat, the frog's defensive mechanism or adaptive mechanism will slowly adjust to the heat. It would actually enjoy the slightly increasing rise in temperature and finally fall asleep and actually be boiled to death.

The analogy, therefore, is that, if falling standards are slowly accepted into the body, one may be unaware of the danger. Let us, therefore, have shared visions of integrity among our people, so that when there are actions of lack of integrity or mal-administration, our reaction is as in the first example that we react violently like the frog when it is put into hot water. Let us not lull ourselves to eventual non-survival by creeping and falling standards of integrity.

**Objectives of Financial Reporting**

Financial reporting should demonstrate the accountability of Government for the financial affairs and resources entrusted to it, and provide useful information for decision-making.

I would highlight two key aspects of financial reporting. One is:

Indicating whether resources were obtained and utilized in accordance with legal and contractual requirements, including financial limits established by appropriate legislative authorities.
The work of the Auditor General in reporting on the accounts of the Republic of Trinidad and Tobago as laid in Parliament - the Lower and Upper Houses - adequately covers that task.

However, one of the other aspects of reporting is:

Providing aggregate information useful in evaluating the Government’s performance in terms of its service costs, efficiency and accomplishments.

In other words, performance audit management, is not easily achieved by the present bases of accounting used by our government; and I may add, this weakness is related not only to our Government, but this basis of accounting is used by many other national governments. This is because we use what is known as the ‘cash basis’ of accounting, whereby liabilities, in terms of services or goods received but are not paid for at the end of a specific fiscal year, may not be brought into account. Because of this specific limitation, sometimes it is difficult, without great searching, to really try to ascertain the cost of the consumption of resources used in providing a specific good or service by a Ministry.

So I am saying that one set of financial statements, that is the statutory audited sets that are audited by the Auditor General, may not necessarily serve adequately the various uses of financial and performance reporting that is required.

I hope the Minister of Finance does not take any objection.

I point out that this limitation is not one that is unique to our Government. In fact, many governments throughout the world are looking at this problem of how to enhance the financial reporting, by introducing what is known as “accrual methods of accounting”, and even going so far as to attempt to capitalize the accumulated investment costs of fixed assets and investments made by governments over the years.

The Need for Enhanced Performance Reporting

To overcome the above limitations in the financial reports, and to achieve effective accountability reporting, there must be established performance measures, both financial and non-financial, that can provide standard benchmark comparisons of “unit output achieved” vs. “resources consumed”. One of the key objectives of government accountability reporting is therefore in evaluating the government’s performance in terms of its service costs, efficiency and accomplishments. I point
out, however, that although output measures should be developed as indicators of performance, in practice such measures may be difficult to devise and implement as part of recognition and rewards systems; because, cause and effect are not closely related in time and space, as we experience, many years after the fact, the effect of government investment or non-spending policy decisions.

Let me repeat that, so you understand the point. I say, "cause and effect are not closely related in time." What I mean by that is that Government reports on an annual basis. Very often, the benefit of key investment decisions on the quality of our life, whether it be hospitals, roads, or schools, may only be appreciated ten years after the expenditure is made. We, the citizenry, will give no praise to the Government of the day that makes these underlying investments that we enjoy as citizens without cost; in fact, they may feel that, rather than the monies being spent on capital purposes, perhaps they should be spent on operational decisions.

Organizational Change and Quality Management.

The point I'm trying to make here - and how it relates to integrity - is that integrity is not the sole prerogative of Government or Public Sector Organization. The Government and the Private Sector are interdependent, one upon the other. You cannot have integrity in one of those Sectors but not in the other.

I state that where Government Policy Pronouncements indicate the need for the Private Sector to provide job creation opportunities, the interdependence between the Private Sector and Public Sector Organizations requires that there be compatibility in the levels of efficiency and timeliness in business processes. Too often, the importance of time, as a resource equivalent to people, finance, technology and process, is disregarded. Where satisfactory levels of service are not provided to the resource provider - that is the taxpayer - the integrity of structured laid-down government processes becomes impaired, as the required response is not forthcoming. Circumvention of laid-down procedure by "personal contact" may be the only answer to relieve potential economic distress from the point of view of the Private Sector Organization.
In summary on that point, I am saying that, where time is a time-based source of competition for the survival of Private Sector Organizations, Government must make sure that the Ministries that have to give planning permissions or approvals or whatever to the Private Sector Organization must respond in a timely manner, because the end result can only be as good as the accumulation of the various different steps and activities along the way. And I know that this is a subject of Minister Draper's Reform.

For there to be accountability of performance within each major government function, the Chief Operating Executive of each Ministry - the Permanent Secretary - must ensure the appropriate design fit in his Ministry among work, information, technology and people responsibilities. This would involve implementing principles of clear direction and goals, accessible information flow, empowering human resource practices and enriched and shared jobs, thus creating an environment in which self-esteem and integrity are able to flourish.

On the other hand, in any environment within a Ministry, where there are unclear strategy and objectives and no identification of vital few priorities, there will be risk adverseness, unclear accountability and over-control, which will promote perceived powerlessness and a bias towards activities, rather than results, leading within that Ministry to insufficient capacity to act on the part of the specific organizational unit. The consequences and results are decreased performance, senior management overload, and drain of human resource.

Our Government has very limited resources to meet the ever-increasing demands of its population in times of significant global changes and challenges. At no time has integrity in resource management, by skilled and competent individuals, been more important. Managers in the public sector must have the ability and flexibility needed to choose the methods that will best accomplish their organizational mandates in the most effective and timely manner. These changes will require constitutional amendments and changes in individual power structures. The pain of transition to a new state at an organizational level even in the private sector is difficult enough, far less at a national level.

I'm sure you all have heard the statement mooted that it is often said that "the certainty of pain is not as severe as the pain of uncertainty."
Change brings about such pain. But if we do not make that leap forward and go through the transition and the pain that we have to bear, I don’t think that we’ll ever achieve the remedies that will come from the transitions we must make.

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Marie Ange Knights

The purpose of this paper is to discuss “integrity and accountability in public affairs” and to present some of the views of the Auditor General on the “Role and Function” of the Office of Auditor General of Trinidad and Tobago” in that regard.

The audit function was traditionally related to accounting and the examination of accounts. However, the need for expanding the scope of that audit function was recognized some time in 1972 and efficiency audits were introduced in the Department.

Today, we undertake Financial Audits, Compliance and Systems Based Audits, and Value for Money, Efficiency or Comprehensive Audits. They all go by the same name.

The quality of financial accounting has a major effect on the information that forms the basis of decisions on the future direction of public administration. What, however, is of crucial importance, is the ability to provide accounts which state to what extent Government programmes fulfil its goals. It is necessary, therefore, that financial accounting information must be supplemented by a separate accounting of results and effect which would be subject to what is referred to as an Effectiveness Audit.

Let us look at what we referred to as Systems Based Audits.

This approach emphasizes the interdependence, the relationship between the different parts, the components of a whole system. The whole may not be the same as the sum of all its parts.

The Systems Approach recognizes that such systems in effect counteract each other in their efforts to attain the general goals. It follows, therefore, that a Systems Approach must take account of the effect of a Sub-Systems, on its own or in co-ordination with other Sub-Systems, on the total effectiveness of the whole system. By the Systems approach, there is the advantage of identifying strategic sub-problems to the overall effectiveness complex.
The Auditor General sees the role and function of what they refer to as, the Supreme Audit Institution of Trinidad and Tobago as basic towards assisting as an independent and impartial body in improving effectiveness in public affairs by promoting greater accountability.

As we have heard, Parliament's role, in the accountability process in the control of the public purse, is the exclusive preserve of Parliament; and today, as never before, growing concerns regarding Government expenditure are expressed by citizens.

This has forced the public to scrutinize Government spending more closely and has led to a demand for full accountability from Government. So that, the more Parliament can show that Government's programmes are being delivered with due regard for economy, efficiency and effectiveness, citizens will support programmes, believing that they are getting value for their tax dollars. This has been emphasized earlier.

**What is accountability**

Accountability has been defined as an obligation to answer for a responsibility that has been conferred. Put simply, accountability is "answerability". It presupposes the existence of at least two parties, one who allocates the responsibility and the other who accepts it with the undertaking to report upon the manner in which it has been discharged.

For the purpose of this discussion, Accountability can be also defined as "the legal and ethical obligation and responsibility in any democracy whereby the rulers of a country administer the resources of the country for the benefit of the people of the country and not reserve it for the benefit of the few."

Practically, the management literature also deals with accountability in close association with authority and responsibility, which arise in the traditional superior-subordinate context. The proximity of accountability to responsibility has, in some sources, tended to make the two terms synonymous. If responsibility is viewed as having two phases, the first being "the obligation to perform, to the best of one's ability, those tasks that are accepted as an assignment", and the second being, "the obligation to account to a higher authority for the degree of success achieved in the completion of those assignments", this second phase of responsibility is what has been referred to as "accountability".
Accountability in Public Affairs, embraces three constituent parts:

- Parliament and Government

- Its monitoring institutions, of which the Auditor General is one, and

- The citizenry.

Parliament and Government, as leaders, are required to set the tone for accountability in any democracy. It is its duty to manage effectively and efficiently and to provide ethical guidance, and be a model for ethical and honest conduct. Its members, and persons in its monitoring institutions, should set the example for the citizenry. It is said that citizens are shareholders in their Government and have a stake in holding their elected officials accountable for the way they govern.

Now, these monitoring institutions are all part of the control environment and influence accountability.

The "Control environment" factors include the integrity, ethical values and competence of its people. Managers and employees are to maintain and demonstrate a positive and supportive attitude towards internal controls at all times. Many times one thinks that internal controls are a humbug, are a bother; but this is necessary in order to ensure this structure of the system.

Management's philosophy and operating style, the way management assigns authority and responsibility; and develops its people; and the attention and direction provided by top management are also key control factors. Management and employees should demonstrate personal and professional integrity and maintain a level of competence that allows them to understand the importance of developing, implementing and maintaining good internal controls.

The ethical environment is perceived as the only mechanism which acts to combat collusion and management override of controls.

Accountability is also the means by which citizens maintain trust in the system of Government. The issue of Accountability has become crucial and visible and governments have been taking note. It has been said that democracy may be in greater danger from internal collapse than from external enemies. Its survival in the long run may depend on its ability to regenerate itself, to prove that accountability and the supremacy of Parliament are not just words mouthed by politicians, but, part of the reality of Government.
Exemplary conduct on the part of top officials is essential also to the maintenance of a healthy ethics environment thereby maintaining the public's faith in democratic governance.

As to the role of the Auditor General as one of the monitoring agencies, the entire concept of internal control, including the control environment and its other components, is entirely and completely dependent upon the ethics environment; and where the ethics environment becomes irreparably contaminated, the concept of internal control collapses. This leaves external control as the only available recourse and will lead inevitably to repressive police-state type measures as the only available means of combatting chaos in the financial affairs of Government.

In Trinidad and Tobago, the External Auditor of Government, the Auditor General, contributes to the achievement of Government's objectives by bringing an independent and objective view through financial statement audits and value for money audits providing information useful to Parliament.

This is reflected in the 'Mission of the Department' which is, "to promote public accountability by reporting to Parliament on independent examination of the accounts and operations of governmental agencies thereby fostering improvement in the management of public resources."

Some of the Guiding principles, include:

- recognition of the responsibility, conferred under the Constitution, to examine and report;

- the conduct of examinations with due regard for economy, efficiency and effectiveness.

- the promotion of principles of cost-consciousness but at the same time maintaining the quality of service.

- the fostering of the highest standards of professionalism and integrity, and the development of a relationship of trust and respect with those we audit; and also,

- a contribution to the advancement of the legislative audit discipline.
In this regard, the Auditor General’s Department has adopted the following Auditing Standards for the conduct of its work, namely:

- operational standards,
- professional and ethical standards, and
- reporting standards.

And the consistent application of these auditing standards in the work of the Department will lend credibility to its reports, findings and recommendations.

It is hoped that by this means, the Auditor General as one of the monitoring institutions encourages the relationship of trust between itself and the other players in the monitoring function through the supportive attitude of managers and employees towards internal control at all times, and by the integrity and competence of managers and employees which allows them to understand the importance of effective internal controls.

Many elements influence the integrity of managers and their staffs. The tone at the top is important. Personnel should periodically be reminded of their obligations under an operative code of conduct which comes from top management. Counselling and performance appraisals are also important.

In the Auditor General’s Department, the effects of “Value for Money” approach into the audit programme of the Department has had a favourable effect on our auditing environment. The very nature of a “value for money” audit and the process of its conduct to completion, enhance public accountability. A close working relationship is required between the auditee and its managers and the auditor, and it facilitates co-operation and engenders a real understanding on the part of the auditee of the tasks being undertaken. The auditee is also assured of the constructive intention of the audit, in that it is designed to assist in improving operations and therefore leads to a willingness to implement recommendations.

The contemporary nature of the audit facilitates ready access to those directly responsible, and the entire process ultimately impacts positively on public accountability in that managers become more aware of the necessity for economic, efficient and effective utilization of the resources at their disposal.

It is our view also that the accountability process would be enhanced further if, as a matter of procedure, a system of permanent referral of all Reports of the Auditor General for action by the Public Accounts Committee is introduced.
The reason why we say this is that, traditionally, the Reports of the Public Accounts of Trinidad and Tobago, and the Reports on the Statutory Bodies and State Enterprises are laid in Parliament and referred to the respective Parliamentary Committees. However, to date no report of a "value for money" nature has been referred to a Public Accounts Committee for discussion.

I will now turn to the Public Accounts Committee of Parliament as a component of what we consider to be the "control environment".

The Public Accounts Committees are vital components of the monitoring function that comprises the internal control environment.

These committees represent, as we always say in the Department, the final link in the chain of public accountability as they bring together all the players. The Accounting Officers, the Treasury, the Auditor General and Parliament, in an exercise geared to ascertain that public revenue has been collected and that public money has been spent in accordance with the approved policy and with due regard for economy, efficiency and effectiveness.

This task requires a great deal of work and therefore the fullest co-operation of all committee members is desirable if the Public Accounts Committee is to make effective contributions towards accountability. As a consequence therefore members must avoid bringing partisan politics into the deliberations of the work of the Committee. Should this occur, however, the work of the Committee would suffer and the effectiveness of the Committee and the credibility of its work would be adversely affected.

**Accountability and State Enterprises**

State Enterprises, as defined by Section 119(9) of the Constitution, have been entrusted with significant pools of government resources either, directly through equity participation and loan capital, or indirectly through Government guaranteed loans.

Accountability to Parliament, and to the people of the country, by the management of all the State Enterprises is imperative.

The reporting requirements of all State Enterprises should be such that the benefit of the ultimate review by Parliament of the stewardship of the management of these enterprises is assured.
Let us look now at some ethical considerations. In Trinidad and Tobago, there are several prescriptions imposed by law, all geared towards developing and promulgating an internal control structure. Some of these include the Constitution, the Exchequer and Audit Act Ch. 69(1), the Financial Regulations and instructions, the Central Tenders Board Act and Regulations relating to procurement procedures, the Civil Service Act and Regulations etc. The Auditor General's Department plays a pivotal role in the development and maintenance of the Internal Control Structure.

While these structures are necessary, all aspects of the Control environment cannot be legislated. Much depends on the Integrity and Ethical standards of all players. The ethics environment, as it is called, consists of all the efforts of activities conducted to promote and support ethical honesty and accountable conduct. This includes top management's personal and official conduct and perceived ethical image and support for ethical conduct through personal conduct.

In some countries, like Panama, a formalized Code of Ethics for Government employees has been developed. And the mandate extends also to the general public whereby its Ministry of Education is charged with the specific task of teaching future generations the principles embodied in the Code.

In conclusion, let me say it is our view that the question of accountability and integrity can only be effective when all parties to the internal control environment are working towards the same goal, are not suspicious of each other, operate with self-control and lead by example. With a healthy ethical environment the sum of all the parts of the control environment will be greater than the whole."

---OOO---

Senator Wade Mark

I begin my presentation by referring to a statement made by the Prime Minister of the Bahamas and present Chairman of Caricom, the Hon. Hubert Ingraham, when he stated at a recent Press Conference hosted by the US President, Bill Clinton in the White House, that "the principles of transparency and accountability seem to be well and alive in the Caribbean".
Our own Prime Minister has also gone on record as advocating increased levels of accountability. However, when account is taken of the inadequacies of the Public Accounts Committee and the Public Accounts (Enterprises) Committee, and the fact that a former Chairman of the Public Accounts (Enterprise) Committee went on a virtual hunger strike on the steps of the Hall of Justice which resulted in the removal of the then Administration, it is extremely surprising and disturbing that the society can still be subjected to words and not be provided with any real action.

Accountability and Integrity remain virtual elusive principles in our fledgling democratic state, with extremely grave implications and consequences for the entire Nation.

As our illustrious President remarked at the opening of this Symposium, we can ignore these principles at our own peril.

The issues of Integrity and Accountability have been haunting our nation since Independence, and even long before. The legitimacy of democratic Governments depends on their being perceived as reasonably honest, and competent in the delivery of essential services.

Accountability has various facets; but the most basic and visible is "financial accountability", to prevent corruption, to prevent fraud and theft as well as waste. Corruption in public affairs seems to be as old as the hills, and at times seems almost an incurable disease.

Since constitutional independence in 1962, Trinidad and Tobago has undergone a most far-reaching change in its attitude towards corruption, particularly in government. Corruption has become virtually institutionalized. Indeed, the population has been so brutalized by corruption that it has now become virtually indifferent to this scourge. The two administrations which occupied political office over the last thirty-seven (37) years were fully aware of the various deficiencies in accountability and integrity within the country's democratic framework. Yet, little was done to address those deficiencies. Today, all three branches of state viz: legislative, judicial and executive have become engrossed in corruption in its many and varied forms.
During the era of the so-called "oil boom", accountability was thrown out of the window and the concept of "jobs for the boys" became accepted as norm. And the boys did enrich themselves, even in the presence of an Auditor General reporting to Parliament annually, the existence of a Code of Conduct or Ethics for Parliamentarians and Ministers, an Independent Integrity Commission which had been provided for under sections 138 and 139 of the 1962 Constitution which only came into effect in 1987.

The Integrity Legislation manifested in the Integrity In Public Life Act 1987 suffers from a host of fundamental deficiencies. Apart from its incapacity to institute direct criminal proceedings against offenders of public integrity, the net covered by the legislation is too narrow. The weaknesses of the Commission triggered a recommendation by the Hyatali Commission for its complete abolition and its replacement by a new and more effective body.

Integrity in public life cannot continue to be viewed or interpreted as a mere empty slogan. Positive action and enforcement must be undertaken to give real life to this concept, if honesty, decency, ethics and morality are to be returned to public life.

In this context, there is need for the establishment of an appropriate Code of Ethics for everyone in government and in the government service. A Code of Conduct may be even more necessary than even enhancing Integrity Legislation. This Code would attempt to promote a system of beliefs, ideals, morals and ethical values that are inscribed in the very hearts of our citizens, that have their basis in the conscience of the individual, rather than in the corrosion of law.

Standards are supportive of institutions of society, but if the institutions are corrupt, then morals and beliefs themselves become corrupt. Hence the existence, as our President said, of a state of moral disorder.

Today, crooked men fill the corridors of a number of key institutions in Trinidad and Tobago. Corruption has percolated the society at all levels.

The United National Congress supports a strengthened Integrity Commission and the widening of the net to take many categories of public officials, as was recommended by the Hyatali Commission.
The level of corruption and dishonesty and dishonest conduct has escalated so dramatically in the past fifteen (15) years, that the financial, economic, and social costs resulting from it dictated the need for a strengthening, and virtual overhauling, of existing integrity and anti-corruption laws, as well as fundamental parliamentary reform.

Unabated corruption threatens the very existence of our democratic form of government. Unabated corruption is not merely confined to our shores, I want to give you the assurance.

In the 1993 Issue of "Human Development Report", it was argued, and I quote:

"Just as Amnesty International now monitors and publicises Human Rights Abuses, so an Amnesty International should monitor corruption at both national and international levels, exposing both those who take bribes and those who offer them. It would not only deter many officials and multinational staff from temptations, but would also give a nation's legal system evidence to allow it to enforce its laws."

The Human Development Report, 1993 also argues that the first weapon against corruption is transparency of information and publicity. Corruption flourishes only in secrecy. Information, carefully researched and widely publicized, could achieve a great deal.

The tentacles of corruption reach stealthily into the public and private domains. And there are many varieties of corruption. I outline a few examples:

- Those who misrepresent their income and property to avoid taxes at the expense of the State are engaging in corruption - the so-called tax evaders. Many of them exist in this land.

- Those who practice bribery for profit or lucrative appointments, are corrupt.

- Those who seem to give protection for the Commission of crimes, are corrupt.

- Those merchants who tamper with the weight and price of goods they sell to consumers, are corrupt.
Those incompetent employers who blame their mistakes on workers, are corrupt.

Those who alter invoices through over- and under-invoicing tactics. Capital flight of billions of dollars over the last fifteen years, and now seeking Amnesty, are corrupt.

Those who steal state property or money, are corrupt.

Those who receive salaries in excess of authorization, are corrupt.

Those who engage in bribes, patronage and nepotism, are corrupt.

Those who protect smugglers and drug traffickers, are corrupt.

All the above manifestations of corruption occur in our society on a regular and virtually routine basis.

The social, economic and financial costs to the State and Nation are extremely severe. As such, the consequences of corruption are manifested in the following:

- Economic damage through depletion of State resources that should have gone to public services.

- Disastrous results based on poor administrative decisions.

- Weakening of the democratic process.

- Loss of moral values.

- Growth of corruption.

- Negative effects on the youth leading to confusion, marginalization and demoralization.

- Increase in crime which tends to grow in a climate of corruption.
Corruption is spreading at an alarming rate and should be fought directly in both
the public and private sectors. It is urgent that we act collectively to combat this
scourge. It is the existence of corruption which lies at the root of poor integrity
and lack of accountability in public affairs in Trinidad and Tobago.

It is our view that all political officers, elected or appointed, who control and
administer finance should be required by Law to make public declarations, not just
declarations to the Integrity Commission but declarations accessible to the
population. In a democracy, people must be assured that their representations are
not only not corrupt, but also incorruptible.

The lack of transparency in government’s operations is a major contributory factor
to graft and corruption.

Foreign borrowing, without providing details and other forms of dispensation, need
to be conducted openly, since there is significant potential for corruption.

There is absolutely little transparency in the Public Sector.

What we are engaged in is a battle against the misappropriation of vast
government resources, which would otherwise be spent on the welfare and
development of the people and in their communities, and for a moral climate
conducive to the decent existence of people.

Corruption has become a virtual way of life in Trinidad and Tobago.

The United National Congress has been in the forefront of the struggle for
meaningful and urgent radical reform of the parliamentary system. Fundamental
reforms are needed for there to be accountability by the Government - this one or
another one - and for the public to have a right to the access of official information.
As you know, information is power. The UNC has been calling on the PNM
administration to establish a system of parliamentary committees to monitor
Government’s policies and actions at all levels, including the annual budget
presentation.
The country's constitutional experts recognise the need for greater accountability of Government to the people through the establishment of a system of parliamentary committees, captured in the report of Wooding Constitution Commission in 1974. The absence of sound and strong institutions as the bedrock of our democracy threatens the very fabric of today's so-called imposed market reform policies currently sweeping the society and indeed the Caribbean, and Latin America at large.

Markets should serve the interest of people rather than people serve the interest of markets. We need institutions beyond the grasp of politicians to avoid the tragedy which has befallen countries such as Venezuela, where a President was unceremoniously removed; Peru, where a President seized constitutional power; Brazil, where a President was forced out of office; and Italy, where a number of Ministers are now in jail.

There exists a clear inability on the part of Parliament to control the public monies. Severe weaknesses now prevail at the level of the Public Accounts Committee and the Public Accounts (Enterprises) Committee. These Committees have little or no power to conduct their activities meaningfully. Fundamental reforms are needed here, as well. Imagine, to date these Committees are now wading through 1982 and 1983 accounts in 1993. We would like to suggest some proposals in this regard:

1. Amend the Constitution of Trinidad and Tobago to provide for the institutionalization of Parliamentary Committees, in an effort to monitor the exercise and function of the Government. This would include the functions and duties of Service Commissions and Government departments and agencies.

2. The appointment to high office, including the Chief Justice, Judges, Commissioner of Police, Commander of the Defence Force, members of the Service Commissions, to be conditional upon subjecting these appointees to public scrutiny by a parliamentary committee of law and justice.

3. The establishment of a parliamentary committee on equality of treatment.
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(4) The establishment of a Freedom of Information Act to give effect to the general right of access to official information by members of the press and the public.

Recently, in the United States of America, the National Security Agency was forced to release a highly sensitive document to a Professor. That was a result of the Freedom of Information Act of the United States which was denied the public for many years.

(5) The need to urgently establish a Revenue Protection Agency to conduct strict surveillance at the Customs and Airports for the detection of narcotic drugs, arms and illegal traffic, as well as to enforce the collection of proper duties and tariffs on goods coming into or leaving this country.

Billions of dollars have been lost as a result of the non-existence of this Agency.

(6) Expose fraud and corruption in the private sector. Fraud and corruption do not only occur in the public sector:

We need to borrow some measures from the Hong Kong type of Independent Commission Against Corruption to eliminate or drastically reduce corruption in this society.

On the issue of integrity, there exists a complete breakdown in moral and ethical standards in our society. In this regard, training - we are advancing - should commence in our schools and our homes; and we agree with the Integrity Commission in its task of educating the population, as one of its recommendations. We believe that this training is necessary to sensitize our young people, particularly the young children, to the importance of honesty and integrity in the work place and in public life.

There is need to introduce a Code of Ethics, for all public officials which would not only lay down rules, systems and procedures, but would assist in distinguishing those grey areas open to different interpretations and serve as a guide for judgment.
The public has an important role to play in combating fraud, dishonesty, and corruption in public affairs. The public has to be vigilant to resist public officials' attempts to solicit rewards in the exercise of their official duties. Such offences must be reported to the appropriate authorities. This will include members of the Police Service and the security forces of our country.

The truth is that immorality reigns supreme in our nation. Fighting corruption requires the majority of the population having the upbringing and civic discipline to ensure that each individual practises good citizenship; the laws alone are not sufficient. In this context, citizens should have a clear, moral commitment and should practise morality and defend it.

Civics, ethics and morals should be taught in our schools, from kindergarten, so that children learn to be good citizens and to practise and defend morality. Moral education is critical to combating corruption which threatens to overwhelm the society of Trinidad and Tobago.

Trinidad and Tobago is so plagued by corruption that any new legislation should address it and seek to apply stronger forms of punishment, including long terms of imprisonment and massive fines. Other measures should be considered, either as deterrent measures, or as compensatory measures for the loss involved in the public funds due to misconduct in public office.

It is clear to us in the UNC that no nation will be able to achieve justice unless its individual citizens are honest. And no land will ever have peace and security until everyone in it does what is right and what is just.

As is well known, secrecy is the weapon or instrument of conspiracy and should never be a system promoted by any civilized government. This is why corruption continues to flourish in Trinidad and Tobago. The withholding of information and the power to release it when it suits the whims and fancies of the ruling Party are very powerful weapons in the hands of any administration. The people's right to information cannot be compromised or over-emphasized. The denial of information to the people by a Government is tantamount to an act of war against the people of a country. Accountability and integrity cannot survive in an atmosphere of secrecy and conspiracy. Trinidad and Tobago is fast becoming a secret State with all its ramifications and implications for human rights and fundamental freedom.

---OOO---
Participant From the Floor.

I would like to put this to Mr. Mark - Is it possible that we can think up, use our resources of brain-storming to come up with solutions for this country based on patriotism?

---OOO---

Senator Wade Mark

What I would say, briefly, is that we are at this moment trying to arrive at a consensus so that we can all, as citizens of Trinidad and Tobago, lay, and probably establish and build, a proper foundation for the future generation. One psychologist has stated that the fifteen to twenty-five years age group in this country, we have lost them and, therefore, we need to concentrate on the babes that are now coming up. So, basically, this is the purpose of this exercise - to arrive at a consensus and to build patriotism.

Our position - that is, the United National Congress’ position - is that we support the position advanced by the Hyatali Commission. In the Hyatali Commission’s Report they, in fact, established in the First Schedule a whole list of offices that would in fact come under the scrutiny of the Integrity Commission.

I think all of us agree on the question of the limitation of the present scope in respect of the persons and so on who are netted under the Integrity Legislation. And what we are attempting to do in these discussions - is to agree as to how far we should go in extending this network, or this net, in capturing many more of the people who currently escape scrutiny in public affairs.

You have Judges of the Supreme Court, Members of the Senate, the Ombudsman and the Auditor General, Members of the Integrity Commission, Members of the Tobago House of Assembly. You have all these people on different directives on a number of Boards and so on.

So, if you look at this schedule, it captures a number of new positions that currently escaped any kind of sanction or scrutiny in terms of the Integrity Commission. And we are in support of expanding the net to incorporate more public officials under the purview of the Integrity Commission.

---OOO---
This is both for Mrs. Marie Ange Knights and for Senator Wade Mark.

In her presentation, Mrs. Knights indicated - and I want to quote her:

"Accountability to Parliament and to the people of the country by the Management of all these State Enterprises is imperative. The reporting requirements of all State Enterprises should be such that the benefit of the ultimate review by Parliament and the Stewardship of the management of these Enterprises is assured."

In his presentation, Senator Mark said that in very many instances we are doing the audit ten years after the date of the close of the financial year. How could we trap dishonesty, after such a long period of not doing what any auditor or any good business person might be expected to do as far as accountability is concerned?

---OOO---

Marie Ange Knights

First of all, the responsibility of the Auditor General is to examine and report. Dishonesty, fraud, misappropriation is a by-product of the audit functions, not the primary function of auditing. However, the Auditor General, the Auditor, must be aware that the possibility exists. This is why the presentation focuses on the question of proper internal control, and internal controls going right through the system with everybody responsible. Proper internal control and responsibility by all levels would minimize collusion.

On the question of the lateness of reports going before the Public Accounts Committee, let me assure everyone here that the position of the office of Auditor General is that accountability is not served when reports are submitted late. As I said earlier, the "value for money audit", the comprehensive audit, because of its contemporary nature by the matters being raised very soon after the events, enhances accountability. I won't go into all the details of the reasons why reports are late. This is probably for Government policy to deal with.

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The question of the understaffing of the Auditor General's Department is one that has to be looked at. I have looked at some of the Reports over the last four to five years, and in every Report submitted to Parliament by the Auditor General there has been a consistent complaint over the lack of staff, shortage of staff, professional staff to do the kind of work that is necessary. I suspect that if the Auditor General's Department was adequate in staff, those accounts that we are now examining, 1982 accounts in 1993, probably could have been addressed properly.

In terms of integrity and honesty, the Public Accounts Committee and the Public Accounts (Enterprises) Committee should have public hearing: We need to really expose these Directors who feel that they are barons and lords. These people should be under public scrutiny. If you are, in fact, to deal with this question of integrity, one way would be by publicizing these things and requiring people to face the cameras fully.

These things are now held in secret, but we feel there is need for a more public approach to this question that would deepen the democratic process. We are certain that the Government, given the commitment to accountability, would view this proposal favourably. Then, shortly, we should have something like that taking place in this country.

---OOO---

Minister Wendell Mottley

Sometimes, the lateness is due to causes internal to the particular organization and cannot be laid at the feet of the Auditor General. One must also remember that there was a mushrooming of State Enterprises during the last seven years; and in that context, the Government has recently taken a decision that some of these Companies can have their accounts done by private Auditors and laid in Parliament.

That does not preclude the Auditor General in the office going back in and doing work and doing over whatever there is to do to make sure that there is a current flow of information. That decision has been taken.

---OOO--
Every single member of the panel alluded in one way or the other to scrutiny of Public Officials in relation to the funds or resources owned by the country, or on behalf of the taxpayer. The Mr. Herman alluded to by Mr. Ottley, suggested however that that area is no longer of interest in modern times. I think in Trinidad and Tobago it is of somewhat direct interest.

If a resource of the State, is sold without going to competitive tender, and a Minister or Parliamentary Secretary attempts to control his subordinates in relation to the process of such a thing, and if a Judge says that that Minister or Parliamentary Secretary does not have the power to do that, we are faced with an interesting situation. We are faced with Section 85, under the Constitution, which is the question of the Minister having the general direction and control of a department. We are faced with the question of policy versus law. So, I am directing my question to the Moderator on law, and to the representative of the Auditor General on what action was taken.

I refer you to the case of the Industrial Sawmill versus Lincoln Myers and Eden Shand and the Conservator of Forest No. 4336 of 1987. There, Justice Blackman said, and I quote:

"The proper course would have been to amend the existing law, to accommodate it, the new policy, that is, of selling state forest lumber to a sawmiller who only used 20% for electricity poles; and 80% for the sawmills firstly and secondly at a price that was uneconomical and below the market price.
Neither the Parliamentary Secretary (that is, Mr. Shand) nor the Cabinet could change the law merely by proposing a policy."

So I would like the Moderator - I have protected the Minister of Finance as a Politician - I would like the Moderator to advise, suggest, comment, on the Conflict which is inherent in a situation wherein sometimes a subordinate or executive Civil Servant retains powers and no Minister, no Permanent Secretary can advise or control that personality in the light of this judgment.

It is a peculiar case, I would add; and I would like Mrs. Knights to state, firstly, whether she or her Department became aware of the judgment; whether she or her Department is further aware that there may be resource sales and disposals of that nature and what processes or procedures or actions, the Auditor General has taken since a decided case in Law was placed before the public and made available as a guide.
I am not sure that I understand what precisely is the question that I am asked to answer. I do understand Section 85, that a Minister is assigned responsibility for a Department of Government, and he can give general direction and control over the Department. But other than such general principles, it is not unusual to find that a Minister is unable to control a number of matters that happen, and that is perhaps one aspect of accountability that has not been touched on. To what extent should a Minister be held accountable for things which fall outside his purview?

If something is done by an inferior, somebody who is subordinate to him, if what is done is wrong, if the Minister was unable to do anything about it, should the Minister be held responsible? Often we hear that something went wrong in a Ministry and, therefore, the Minister must resign. He has failed to do that, and it is said that he has not shown proper accountability.

You may find that a Minister is unable to deal with many persons because of the powers, say, of a Commission. He cannot discipline, he cannot transfer. And so, there is a great limit to ministerial responsibility. Having the general control, as a Minister has, over the Department or his own Ministry, does not, in my view, mean that the Minister is either legally or morally or politically responsible for many of the actions that are performed by that Department or Ministry.

---OOO---

Marie Ange Knights

Firstly, I will say that, personally, I am not aware of the facts of that case. If, however, this case had some implication for the public Accounts of Trinidad and Tobago, the way we are structured in the Department is that a particular Division handles Government Ministries and Departments and this matter would be brought to their attention. However, I am not aware that the particular entity is one that will fall within the purview of the Office of the Auditor General.

The other matter is that, if the decision or the facts of the case, or that matter involving the Ministry, involve some form of government policy, the Office of the Auditor General is not involved with the questioning of Government policy, per se. We may examine and report on the effectiveness, etc., but we do not get involved. Government has been put in place to set policy and we look at how that policy was carried out.

---OOO---

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In most of these Acts, when you are dealing with State Corporations, there is a provision that the Minister may give special or general directions. In this case, you have simply the power to give general directions. Had there been a provision for general and special directions, it might well be that the judge would have found differently and that the Minister could have said, "You shall not do this or that," in a particular case. But what the Constitution lays down is just the broad principle that the Minister has the 'overall charge of,' and that overall charge does not permit him to do other than state a policy matter, which must then be carried out by the appropriate Civil Servant, the Permanent Secretary.

We have had a great deal of learning on what "accountability" is. We have seen that there are a number of provisions that are in effect. We have seen that the Constitution itself, that it provides in the form of the Sections that deal with finance, with the setting up of the Public Accounts Committee and the Public Accounts (Enterprises) Committee, the Auditor General, the provisions for the Consolidated Fund and the need for Appropriation Acts. All these are matters that have been provided for, and there is no reason why they should not function efficiently.

There are weaknesses; there always have been. I cannot help recalling, as this has come up, that when I first heard of a Public Accounts Committee, which would have been some fifty-six years ago when I was attending lectures, the great constitutional lawyer, Sir Ivor Jennings, said that there was a weakness about the Public Accounts Committee, in that it dealt with things after the event. You are attempting to close the door after the horse was out of the stable. But, as he pointed out - and as I think there has been reference here, perhaps Senator Wade Mark said it ought to be - but as I understand it, the Public Accounts Committee first of all, is always chaired by a member of the Opposition; and that is the strength of it.

The strength of a committee is largely the strength of its chairman; and in the vivid language of my instructor, Sir Ivor Jennings, he said, "The information you get is grist for the mill of the next election" and, therefore, this Opposition Chairman goes into very great detail of what happens and what the committee reports. Moreover, those who appear before it, from the highest level down, show it great courtesy and respect. He even went on to illustrate that he had been away on a lecture tour and he knew that, when he returned home, he would have to give a domestic account and that it had a great restraining effect upon him. It is thought that accountability would have similar effects upon Ministers and those charged with other responsibilities.
What has come out, though, is that, primarily, what we need is an attitude to things and an atmosphere of ethics.

It has been suggested that we should begin very early with children in the form of education.

This follows a line that was said by our distinguished representative from Ontario on the question of the importance of teaching, of instructing, and of getting people to accept that there are certain responsibilities, that there is a way of life that is honest and that this would help very much more than an addition of laws and simply attempting to legislate morality.

I think we would all agree with this. We all know the flaws that there are in human nature; we have seen the weaknesses of the Integrity Commission and the legislation that governs it. We have seen that people who ought to come within its purview should be much larger in number than those that now happen to be.

We have seen that it should have powers to do the things that it doesn't have at the moment. We have seen that even the reports of the Auditor General are now being geared to show not only figures but efficiency, and what things cost in relation to what they produce. This point was made very strongly by Mr. Marshall - the need for this - but we have seen that there still can be lapses.

We have heard very serious allegations made by Senator Wade Mark. Perhaps he was indulging in a certain permitted hyperbole, and that the country as a whole is not as bad as he has portrayed. I hope so. But if it is, I hope that the reforms would be coming soon and that, with a beginning being made to teach our young ones, we will find that we haven't really lost a whole generation and that there still will be salvation for those who are over the age of twenty-five.
But it is important, it is essential, that we should be very aware of the dangers there are; of the perception that there is of a country that is given to greed, that is given to corruption and, in the various forms that he mentioned, both in the public and the private sector and at all levels. Let us then, if there is this state of affairs, do what is in our power to improve it by exposing it; by facing up frankly to the fact that there are amongst us those who do not walk the straight and narrow; and by doing everything that we can on the basis, which has been suggested, even of patriotism of teaching people what they owe to their country, because, it is their country. I think that what Senator Wade Mark was saying is that there is the general principle, in every aspect of life, of giving every man his due. Which means that if anybody seeks to get more than his particular due, he is being unjust, he is being corrupt, he is being unfair. So, we have a position where we’ve got to get a citizenry that expects no more than its fair due and, thereby, permits each and everyone to have his fair due, whatever it may be.
SESSION 4

ENFORCEMENT OF INTEGRITY LEGISLATION
SESSION 4

THE MODERATOR AND PANELISTS

THE HONOURABLE JUSTICE EVAN REES: Chaonia Medal, Gold

Former Judge of the High Court and Court of Appeal in Trinidad and Tobago (1961-1971) Appointed First Ombudsman of Trinidad and Tobago (1977-1990). Called to the English Bar in 1945 and admitted to practise as a Barrister-at-law in Trinidad and Tobago in 1946. Served as Legal Advisor and Executive Office to the Comptroller of Import and Exports and Customs, Magistrate and Senior Counsel in the Attorney General’s Department. Represented Trinidad and Tobago at several Conferences including the Association of Judges at the International Bar and was elected to the Board of Directors of the International Ombudsman Institute (1992). Is President of his Alma Mater, Queen's Royal College and is Chancellor of the Diocese of the Anglican Church of Trinidad and Tobago.

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Panelists

MARTIN G. DALY, S.C.

Independent Member of the Senate of the Republic of Trinidad and Tobago. Senior Partner of the firm M.G. Daly and Partners. Has served as a Temporary Judge of the High Court of the Republic of Trinidad and Tobago.

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Panelists

SURENDRANATH CAPILDEO

Member of the Senate of the Republic of Trinidad and Tobago.

Attorney at Law, Educated at Queen’s Royal College, Trinidad and at Oxford, England.

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ANTHONY SMART

Former Attorney General and Minister of Legal Affairs and Deputy Speaker of the House of Representatives in the Republic of Trinidad and Tobago. Attorney at Law, admitted to the Bar in 1972.

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JOHN DOUGLAS BARRYMORE RENWICK

Legal Adviser (General) of the Organization of Eastern Caribbean States (O.E.C.S.)

Former Pusine Judge of the West Indies Associated States Supreme Court. Retired in 1984. Educated at Grenada Boys’ Secondary School, Keble college, Oxford and the Honourable Society of the Middle Temple. Received the Bachelor of Arts Degree, Hons. Jurisprudence and was called to the English BAR in 1950. In February 1954 joined the Judicial & Legal Services of the Windward and Leeward Islands and has served in all now Member States of the O.E.C.S. Took SILK in 1968.

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In his opening remarks Mr. Brian des Vignes, a member of the Commission emphasized that the principal intention of the Integrity Legislation was to address the conduct of persons holding public office in such a way as to maintain public confidence in the behavior and conduct of such public officers whether elected or appointed to office. Unbecoming conduct and behavior of a small minority of persons holding public office can:

(a) tarnish the good name and reputation of the majority of other persons holding public office;

(b) erode and displace whatever public confidence the public may still have in the honest discharge of the role and functions of persons holding public office;

(c) deter able, willing and respectable persons in the community who are dedicated to service without any self-serving motives from becoming involved in public life to the serious loss and detriment of the quality of life in the nation.

The question thus resolves itself as to whether the present legislation has fulfilled its role in instilling in the public a sense of confidence in the institutions of the country and in those who administer them. Is the Integrity Commission and the authority and powers vested in it, capable of acting as an effective deterrent to improper conduct and unbecoming behavior of persons holding public office? What are any necessary steps and measures that can be addressed in determining whether any changes are necessary to ensure continued public confidence in the country, its institutions and the persons holding offices, and also to displace any cynicism that may have developed?
The Panel Discussion

The general tenor of the discussion tended to paint a picture of hopelessness, inertia and an inability to salvage a country heading for a total and catastrophic breakdown. It has been recognized that the enforcement of Integrity Legislation is not confined only to identifying an alleged wrong-doer but concerns more the frustrations and deterrents which militate against addressing adequately and promptly conduct, occasions and situations, which are inconsistent with the letter, spirit and intendment of such legislation, brought about by ever increasing institutional weaknesses in the society, the more important and significant being-

1. The malaise and delays, in ensuring compliance with legislation in respect of behavior whether of an anti-social or criminal nature.

2. The lack of any acceptable standards of conduct and behavior in all aspects of the society.

3. The high and notable incidence of patronage both in the private and public sectors with very little regard being paid to the morality, integrity and acceptable ethical standards of behavior of some of the selected incumbents. Such patronage can be said to have been institutionalized or formalized through the establishment and creation of State Enterprises.

4. The ever-increasing and inordinate delays and the consequent denial of justice within the entire framework of the administration of justice, the last bastion of hope in a democratic society.

Another relevant and significant factor for consideration in this regard is the lack of respect, adherence and observance of the conventions of Parliament which have been inherited and accepted in this country but which are more honoured in their non-observance than in their observance. For example:
(1) the enforcement of sanctions depend to a great deal on how our population perceives what is right and what is wrong in public life;

(2) the present Symposium is more an academic exercise but in order for it to have any effect and significance all the people will have to be involved in a massive education exercise which is fraught with danger and frightening difficulties;

(3) the re-creation of a society acceptable to all which is no mean task and which will take generations to achieve;

(4) the future could be a Somalia, or a Haiti, or a Lebanon or a Singapore, or a Trinidad and Tobago we love, cherish and honour.

However, the Commission's representative on the panel made a comparison with the Canadian approach by way of a "public disclosure statement" which is prepared by the Commissioner for conflict of interests and which contains a summary of such information as the Commissioner considers appropriate for public scrutiny. A similar approach could be considered in giving effect to the present provisions which prescribe penalties for failing to make disclosure or for making a false declaration but there is no effective machinery to penalize such failure or conduct on the part of the persons concerned.
SESSION 4: EXTRACTS FROM PANEL DISCUSSION AND DEBATE

This Session seeks to deal with some of the difficult issues involved in the enactment of legislation which is intended, effectively and meaningfully to address the conduct of persons holding public office.

The main purpose of this legislation, and of legislation of this nature, is to instil in the public, some measure of confidence in the behavior of officials, whether they be elected to office, or they hold such office by appointment.

The good name of the majority of public officials has been besmirched by the behavior of a relatively small minority, and the public has come to believe that the sins of the few are the standard practices of the many.

How we dissipate that cynicism on the part of the public, and replace it by a feeling of confidence that persons in public life are honourable citizens, dedicated to service with no self-serving motives, is a question that we must answer.

The present legislation is in concept a step in that direction. It is based on the premise that, if a person in public life is prepared to make an honest declaration as to the state of his financial affairs, immediately before and then during his term of office, and then immediately after, then he has nothing to hide, so to speak. Taken one step further, if a person about to enter into public life or already in public life, is, by legislation, enjoined to make an honest declaration as to the state of his financial affairs during the period to which I have referred, then he will ensure that he has nothing to hide.

It is said that sunlight is a powerful disinfectant, and that is true of moral life as it is of bacteria. This premise forms the foundation upon which is built the whole structure of Integrity Legislation lies.

The larger question for debate is, does the present legislation go far enough in giving to the public a feeling of confidence that the Integrity Commission, merely by its very existence, is capable of acting as a deterrent to improper and lawful conduct?
In our Symposium document, which is entitled "Whither Integrity Legislation," we have highlighted our thoughts on what we consider to be the issues that must be addressed if the present legislation is to accomplish its purpose.

The general subject for debate is the issue of "Enforcement of Integrity Legislation" with specific reference to the ability or otherwise of the Commission to carry out its investigation.

This panel is comprised exclusively of lawyers, all with some degree of political and practical experience; and I hope that these issues will be addressed in as legalistic a framework as possible, and that such discussions will not necessarily be restricted to the singular issue of carrying out investigations but will extend to wider issues of what amendments are considered to be necessary.

I have every confidence that the discussion will provide us with specific answers to some of these questions.

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Senator Martin Daly

I was a little alarmed to hear Mr des Vignes say that we were all lawyers and we will deal with things legalistic. That is certainly not part of my game plan.

The position which I propose to take in relation to the topic under discussion is to suggest that because of current conditions operating in this society, the subject for discussion is largely irrelevant.

My position is, that we are close in this society to a substantial breakdown of what is commonly called "law and order." And I think that before I address the specific issue on the enforcement of Integrity Legislation, I should like to suggest that, for the reasons I have already indicated and which I will develop, we have first got to focus on our ability to enforce any legislation in this country.

Because I heard it suggested by a previous speaker that the statute books are already very full and, really, a strong case has to be made with filling them some more.
I suggest that there are certain features of life in Trinidad and Tobago today which militate against integrity and the enforcement of any legislation, and indeed, against the enforcement of any type of sanction. As you will know, there are schools of thought in jurisprudence who discuss the importance of sanction in society, of which breaking a law passed by Parliament and being punished by a fine or going to jail is but one species of sanction. There are other types of sanction that operate in a society, and must operate if the society is to hold together. I am suggesting that these features, which I am about to identify, militate against any kind of sanction for anti-social or criminal behavior.

I was fortunate, from the various sources in the media, to be able to identify nearly all of what His Excellency, the President, said at the opening. His is a voice that sometimes perhaps because of its quiet authority, what he says does not get the attention it deserves.

The first feature that militates against the enforcement of legislation, is each person’s lack of awareness of his personal responsibility. His Excellency put it another way, and I would like to adopt his words to describe the first feature. Quoting His Excellency - ”I think we suffer from a lack of cultivation.” - he referred to the need for some form of public education process to cultivate the enlightened conscience in society.

In this society, we suffer very severely from a lack of "cultivation of the enlightened conscience". I would go further and say that we lack as part of an enlightened conscience, we also lack an awareness of how law-breaking makes a circle and ultimately comes back to affect the law breaker.

The most telling example of this is the fact that we have little or no provisions in our law for the serious control of driving a motor vehicle while under the influence of alcohol or any other mind-bending substance. Indeed I will confess to be guilty of it myself because I am very much a product of the whole society. Men, in particular, have been known to have long discussions about how their car found its way home from this or that function or this or that club.
That is traditionally always a very amusing subject; but, in fact, it often has very, very, tragic consequences. It is one example of a lack of enlightened conscience, and a lack of awareness of the consequences of a very fundamental piece of law breaking. We may not have a law that is specific enough, or have the paraphernalia and the infrastructure to enforce the law. But I suggest that there are many enlightened consciences in the country that do not regard drunken driving as any big thing, despite its ability to maim and kill individual persons and destroy family life. So that I don't know, against that kind of a lack of awareness, whether this push for improvement and enforcement of Integrity Legislation is going to get very far. I would, of course, suggest that we adopt some things that might be done with regard to integrity legislation, but we are a long way away from such an arrangement.

We have a real love for, and appreciation of "smart men". Naipaul tells the story of the famous "Sam Cooke fraud". A promoter advertised that Sam Cooke, then a very famous pop-singer, apparently not in a state of dehydration, was going to perform at the Globe Cinema. And he sold thousands and thousands of tickets and, of course, Sam Cooke didn't know where Trinidad was, let alone had he been contracted to come here. And Naipaul recalls how many citizens outside the Globe were happy to say that they really admired the dexterity with which the promoter had relieved them of their money.

And that situation really hasn't changed. I have been to one pop concert in the Stadium and it certainly wouldn't happen again.

One hears all the time about people being relieved of their money and being promised various things - whether it's a kiss from Julio Iglesias, or whatever it is, and, of course, these things never materialize. But huge thousands and thousands of people are prepared to be victims. It doesn't occur to anybody that what has been done to them is completely unacceptable.

And, similarly, we don't seem to have any common view that, for example, there is a duty on those in charge of public service vehicles to use them carefully and not kill people. At least once every year, we have some public service vehicle, clearly and demonstrably in infringement of the traffic laws, killing someone. Yet, we never seem to hear of the prosecution or conviction of the offender.

We don't seem to have a homogeneous view about what is unacceptable behavior.
I could not let the occasion pass without once more producing my favorite picture. We do not seem to have come to a common view that this march of serving police officers around the Red House was unacceptable. I believe, too, that the combined number of policemen - armed policemen, I ask you to observe - in this picture is over thirty; and we have read of, I think, of three of them losing a day's pay each.

This picture illustrates the kind of problems which we have. There was some outcry about it, but it died early a natural death, as things usually do in Trinidad and Tobago. I carry this picture around with me and use it nearly all the time, because it reminds me of the considerable danger to which one is exposed by the inability of the society to close ranks against unacceptable behavior.

I am tempted to raise with you as well, but I won't, in what circumstances it is permissible to absent yourself from President's House on a national occasion. But I want it to be clearly understood, that when this sort of rot sets in the course of one's everyday behavior, we are making legislation, and the expression of sanctions, almost meaningless.

I noted with interest that Chief Justice Evans referred in the course of his presentation to "patronage". I would like to identify this as another difficulty we have in the enforcement of legislation - and this applies particularly to the Integrity Legislation. Anyone in public life, who has dispensed the largess of patronage, would have cultivated a substantial body of opinion that will not want to see that particular dispenser of largess come to grief. So that I was very happy to see that that question was raised much earlier on in the deliberations of the Symposium. I don't know much about patronage in Canada, but I can assure the Chief Justice that we might be able to give a few lessons in political and other forms of patronage.

It is quite astonishing how many persons at various times have enjoyed one form of patronage or another, particularly in the dispensing of office in either the Public Service or in offices in the State Enterprise system. Some, who have done an outstandingly bad job, have been able, after a passage of time to bounce back and once more have the ability to have assets that belong to the public, or to the Government, in their hands with which they can do a fair amount of damage.

It is very important not to under-estimate the importance of political patronage, because, once that becomes an accepted feature of life, it is very difficult to see how persons are going to regard with any kind of objectivity, wrong-doing on the part of the person in public life with power to dispense patronage.
Dr La Guerre has been talking about the need to consider integrity in the context of divestment of State Enterprises and Public Corporations, and so on. I would like to suggest that whether it was a good thing or bad thing for the economy, the state enterprise system produced a fantastic fund out of which patronage could be dispensed. I dare say that the former Attorney General will recall that, one of the things in the Manifesto of his party was an attack on the system where cliques were given the public assets or assets which belong to the Government to do what they liked with. In the context of patronage, one cannot underestimate the bad influence that the system of state enterprise ownership has had on institutionalizing or formalizing political and other forms of patronage.

I would like to identify the considerable weaknesses in all of our institutions in this country, particularly those responsible for the maintenance of law and order and peace in the society.

It is very ironic that, with one limiting exception, no prosecutions can be undertaken under the Integrity in Public Life Act without the written consent of the Director of Public Prosecutions (DPP). Yet, and I've made this point before, we can't even appoint a DPP in this country. We have had an acting DPP for the past three or four years. If you examine our history since the Republican Constitution, you will find that we have had more "actors" as DPPs than we've had substantive appointments.

Right there you run into a fundamental road block. You may extend this legislation, and this very innocuous phrase "with the written consent of the DPP", or "with the consent of the DPP", which turns up in much of our legislation, will remain. You may expand the Act and bring in all these new offences and all these other people under the Act, and you may devise all these wonderful punishments; but the person who has to give the written consent to the prosecution is an "actor" and, therefore, not someone who can act with the objectivity necessary, or with the concern that is required, of such a high constitutional office.

That is another example that shows the importance of the interaction between what I have described as certain weak features of unacceptable behavior in our society and an institutional weakness in the subject under discussion. It is totally unacceptable, that this high constitutional office has not yet been filled.¹

¹. Editor's note - This office has since been filled.
I am going to introduce my other favorite pictures. As a particular aspect of institutional weakness in the society, we have the whole question of the delays in the administration of justice. So go ahead and improve your Act, make a whole host of new offences; and then, assuming you can find the DPP to give you your written consent, let’s see how long it takes to prosecute a case through all its stages given, of course, all the additional protection that we have under a written Constitution. I am not a person who will shed any tears for the penalty of death by hanging. It is very interesting that the Privy Council is now being made to take some of the flak for our failure to execute persons. It seems to me that we have had an unofficial moratorium on hanging in this country for approximately ten years. No attempts were made, no warrants were read or anything of the kind; and here we have an external Judicial Body, they have one single point - I don’t think they really care whether we hang or don’t hang.

From where we sit, it is a mark of lack of civilization in a society, that a criminal prosecution should take upwards of ten years. You will see in some of the cases in Jamaica that where an appeal goes to them, not by way of a Constitutional motion, but simply by the way of appealing against conviction, that they recommend that, because of the length of time that the case has been going on, the person’s death sentence should be commuted to life imprisonment.

And they are saying one simple thing; they are simply saying that those kinds of delays or trying people in batches, that is going to take over fifteen and twenty years, is not an acceptable feature of civilized society. We should take great care to read and understand what we are being told about the delays in the administration of justice. That is another thing which is going to affect any improvements in the legislation that is proposed.

We have a considerable institutional weakness in the Board of Inland Revenue and I will demonstrate what its relevance is to this subject. All of us get these irritating queries: "Produce for the fifteenth year a copy of your mortgage deed with the mortgage lending institution", because you may be some kind of tax-evader.
Yet we read about persons who describe themselves as "farmers" and who spend colossal, well-advertised sums of money; but the Inland Revenue does not seem able to embark on a field audit of these persons. They would embark on a field audit on anyone of us if we do not produce the Mortgage Deed for the fifteenth consecutive year. That is a form of institutional weakness. I challenge whether the Commission really will have or be given the professional expertise and infrastructure to carry out some of the inquiries in this present legislation, far less any improved legislation.

Before I suggest what are some of the things that I think would concern the enforcement of Integrity Legislation, I must put in the forefront of my presentation the fact that I believe we have become paralyzed and unable to enforce much of the important legislation that we have on our books.

During, I think, Mr Smart's time as Attorney General, he passed the Drug Trafficking Act which has all kinds of wonderful sounding things in it - confiscation orders, forfeiture orders, you can't go to the bathroom without the Police Authorities following you if you are being prosecuted or convicted of a Drug Trafficking Offence. But I can't think of one prosecution, let alone confiscation or forfeiture order, made under that Act since it has come into force.

That is another example of an Act where we have gone abroad; we have listened to distinguished speakers from abroad; we have tried to find out how people do these things abroad; we have produced an Act that is, roughly speaking the analog of United Kingdom Drug Trafficking Legislation and we are alleged to have a drug problem. But we don't seem to be able to enforce these Draconian Laws.

That is why I am approaching this subject in the way that I am. I want to suggest that any improvement, any enforcement of Integrity Legislation, is going to suffer from these difficulties, regardless of its contents.

I will produce another one of my favorite pictures as I promised, I think that it is important that people don't forget these things. This is a picture of delay in the administration of justice in Trinidad and Tobago. The scales of justice hanging over the head of a men who became a vagrant while waiting for judgment.
What are we doing about this in the context of enforcing legislation? As far as I could see, not a great deal.

In my first set of Senate Papers for the next Session, I got a set of accounts for a State Enterprise, actually a Public Utility. They send us these things at great cost. But look at the regard we have for the Constitution, when you get this set of accounts for 1983 in 1993. This Report is being submitted to the Speaker of the House of Representatives, the President of the Senate and the Minister of Finance in accordance with the Provisions of Sections 116 and 119 of the Constitution of the Republic of Trinidad and Tobago so may I ask rhetorically - Enforcement? Wonderful, isn't it?

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Senator Surendranath Capildeo

Given the state of the nation, there is an air of unreality about this "Integrity Symposium, 1993". I am tempted to say that the question posed by the Symposium: "Whither Integrity Legislation?" provides its own answer: "Nowhere". In Trinidad and Tobago today you are all going nowhere fast with this Symposium.

Let us look at the reality of our society today. We are likened unto a "frontier society". We have become a society without norms. We have lost, and it seems irretrievably so, the civility of the forties and the fifties. The very mores of our people have undergone dramatic and savage change. Violence has emerged as a common denominator of our culture. Violence in all its horrendous forms. Violence to the mind; violence of the mind; violence to the person; violence to the environment. We exist in an atmosphere of violence.

All our institutions have crumbled. Our little civilisation has enormous cracks in its body politic. Society has crumbled in the face of the most primitive of human instincts. We have brought the worst of 42nd Street into our homes and our lives. Law and order have broken down, and here we are discussing in sweet gentility, on the 16th Floor of the Central Bank Towers, high above the capital city: "The Enforcement of Integrity Legislation". It is unreal, I tell you.

The reality is that we are under siege. All aspects of what was once considered the norms of civility seem either to have been wiped out, ignored or descended into the uncontrolled depths of indiscriminate rugged laissez-faire individualism - from little things like how we approach major roads and traffic lights, to
littering highways with garbage and dead and decaying animals; our treatment of the old, the aged, the infirm, the poor and the dispossessed; the pupil and the teacher; the priest, the Imam and Pundit; the coconut vendor; the pedestrian; the pot-holed roads and the expensive vehicles. Look at the reality of life around you and the failure rate of civilized life hits you hard in the face. And then we come to the institutions, the pillars, the very foundation of our society, and the real horror of the barbarity strikes home. Our Education System, our Public Service, our Health Institutions, our Parliament, our Protective Services, and finally, the last bastion, the Judiciary itself - all in a state of collapse.

We have erected a cowardly, primitive society where the politician is to be suspect and not to be trusted; where the businessman is a thief; where the Judge is easily influenced. Justice is for them, not for us. The facts swirl around us as we drown in a whirlpool of social madness.

A former Judge of the High Court speaks of corrupt judicial officers. Teachers speak of corruption in the education system. The Auditor General records as an annual ritual, acts of corruption. The Commissioner of Police says he is a rejected or not collected - and tell me what could be more important to the very soul and psyche of this nation than our highest National Awards; - I tell, you, we have so many straws that broke the camel's back that we no longer have a camel.

Yet here, you and I, we are debating the "Enforcement of Integrity Legislation." But there are certain basic things to discuss. What is our philosophy with respect to the fundamental question of law and morality? There are serious questions of jurisprudence, which our philosophers of the law must engage in if we are to approach this Symposium with any seriousness and which, for want of time, we cannot expand on.

For example, and I want to quote here Ronald Dworkin, Professor of Jurisprudence, Oxford University and Professor of Law, New York University, in his book "Taking Rights Seriously" published by Havard University Press. I will read it to give you an idea of the kind of debate that ought to have taken place before we approached the Symposium - a debate that should have taken place among our legal brains and among the philosophers of the law, if we have any.

.....The Government must treat its citizens with the respect and dignity that adult members of the community claim for each other.
"The Government may restrain a man for his own or the general good, but it may only do so on the basis of his behaviour, and it must strive to judge his behaviour from the same standpoint as he judges himself, that is, from the standpoint of his intentions, motives, and capacities. Men generally feel that they have chosen to act as they have, but they do not feel this to be so in a particular circumstance of accident, compulsion, duress, or disease and each of us makes this distinction not only for himself but in judging how to respond to others he regards with any respect. Even a dog, Justice Holmes said, knows the difference between being kicked and being tripped over.

Perhaps the principle that Hart cited, that the government must show the minimum of respect even to accused criminals and treat them as humans rather than as opportunities, will help establish that a contradiction exists. This principle, for example, informs the doctrine that a man is innocent until proved guilty, and helps to explain why it seems wrong to imprison a man awaiting trial on the basis of a prediction that he might commit further crimes if released on bail."

You see the kinds of problems that we must discuss before we reach some sort of understanding of this legislation.

For any such prediction, if it is sound, must be based on the view that an individual is a member of a class having particular features, which class is more likely than others to commit crime.

In this society we have a tendency of painting with a tar brush a whole section of people, saying they are guilty of all the crimes. The prediction, that is, must be actuarial, like the prediction an insurance company makes about the likelihood of teenagers to have automobile accidents. But it is unjust to put someone in jail on the basis of a judgment about a class of people, however accurate, because that denies his claim to equal respect as an individual.

I raise all these questions because, as you are aware, and you will appreciate, you cannot legislate integrity. Integrity must begin in the home, it must continue in the school, it must be developed in the workplace until it permeates the whole society naturally. You just cannot legislate that.
But we have created a society in which people no longer differentiate between good and bad. The population has been bludgeoned into accepting corruption as a norm. You must bribe to get a birth certificate. You must bribe to get a motor vehicle transfer or licence. You must bribe to get a contract. The "All ah we tief" syndrome is alive and well in the minds of all our people.

I close with a few quotations. We could look at Aristotle when he says in "The Rhetoric":

"The magnitude of a crime is proportionate to the magnitude of the injustice which prompts it. Hence the smallest of crimes may be actually the greatest."

Or Virgil in "The Aeneid."

"Had I a hundred tongues, a hundred mouths, and a voice of iron, I could not summon up all the types of crime nor all their punishments."

Or Cicero in "De Legibus".

The punishment shall fit the offence."

Or Cicero again in "De Officlis."

"Care should be taken that the punishment should not be out of proportion to the offence."

But perhaps the most apt comes from Cardinal Richelieu.

"Nothing so upholds the laws as the punishment of persons whose ranks are as great as their crime."

I would like to emphasize that the enforcement of sanctions depends to a great deal on how our population perceives what is right and what is wrong in public life.

I daresay that today that distinction is blurred and other basic issues overshadow and override this concern.

What you have here today then is an academic exercise. But for this exercise to be practical, we will have to involve all our people in a massive education drive which is so fraught with danger and difficulty that it frightens me. It scares the
daylight out of me. For you see what has happened to us here, and the challenge that we face, is really that we have to create or recreate a new society, and that is no mean task. It will take generations to undo the damage that has been done.

Our law books are replete with sanctions for breaking the law. We have enough talent in this country to draft any legislation to take care of any new offences which may appear to be necessary for us to do.

We can draft anything to suit any new offence which would affect our body politic; but that is not the issue. The question is: What kind of Republic do we want? What is our future: Somalia, Haiti, Lebanon, Singapore, Mauritius? Or are we going to create a Trinidad and Tobago that we love, cherish, and honour? That really is the issue that faces us today.

---OOO---

Anthony Smart

Unlike my two learned friends, I do not believe that the subject that we have for discussion here is largely irrelevant. I see here that we hope to be discussing the Enforcement of Integrity Legislation, and addressing particularly the carrying out of investigations and penalties for breaches of the Act.

I note that the Integrity Commission, in its memorandum, is proposing that it should have the right to appoint a special investigator on an 'ad hoc' basis to deal with problems as they come up, and that the scope of the powers of the Commission should be expanded so that it could, to quote them, "enquire into whether any breach of the Integrity in Public Life Act has been committed and not merely to enquire into the accuracy or fullness of a declaration filed with it."

Now, I agree that, in certain circumstances, there should be the appointment of a Special Investigator to give the Commission the wherewithal to do investigations that they think necessary dealing into declarations filed by those persons in public life.

I do not see, however, how the second proposal advances and improves the effectiveness of the Commission. Because they are saying - the Commission is saying - that they want to enquire into whether any breach of the Integrity in Public Life Act has been committed - any breach of the Act. But if we look at Section 27 of the Act; we see what the breaches are. And the breaches are -
"Where a person fails without reasonable cause to furnish the Commission with a Declaration or further particulars".

It seems to me that you do not need a Special Investigator to deal with that breach. We had recently, very recently I think for the first time in the history of the Integrity in Public Life Act, a situation where a person in 'Public Life' refused for two years to submit his Declaration and that in itself is an offence. And it was so blatant that the Commission had cause, under its powers given in the Act to publish the name of that person in the Gazette.

Now, the penalty for such a failure is a fine of Twenty Thousand dollars and two years imprisonment.

The name was published and I do not know what happened after that. I do not know whether the Commission proceeded to inform the Director of Public Prosecutions, so that a prosecution can take place. Nothing has been said so it will be interesting to know what the position is with that.

So as I said, you do not need an Investigator for that particular offence. Now you are looking at the offences:

(b) where a person knowingly makes a declaration that is false in some material particular.

Now, in a situation such as that, you would need probably an Investigator to provide the necessary evidence.

(c) where a person fails without reasonable cause to give such information as a Tribunal may require.

Again, you don't need an Investigator in order to investigate such an infraction because it would be self-evident. Or,

where a person fails without reasonable cause to attend an enquiry being conducted under the Act.

Those are the four offences provided for in the Integrity in Public Life Act. And in three of the four offences, you really do not need a Special Investigator. It is only in so far as testing the veracity of a Declaration is concerned that you may need, you may probably need to appoint a Special Investigator. The point I am making is that there is really no need to amend the Legislation in so far as it was
necessary to make the statement that the Commission should be expanded so that it can enquire as to whether any breach of the Integrity in Public Life Act has been committed.

Because, as I have said, in three of the four breaches, it would be self-evident. Insofar as the other Breach is concerned, what you would in fact be doing, is enquiring into the accuracy or fullness of a Declaration filed with the Commission. And the Act already provides for that - for enquiring into the accuracy or fullness of a Declaration.

So that on the two points raised by the Commission, I said that I agree that we should have a Special Investigator appointed, but I do not see the need to amend the Legislation, insofar as that other aspect is concerned.

But, I want to take the discussion further. Any discussion on the Integrity in Public Life Act, and in particular, on the carrying out of investigations, and the penalties for breaches, will not be complete without one having a look at the Prevention of Corruption Act, 1987, which I consider to be complimentary to the Integrity in Public Life Act.

Now, it is interesting that that Act was passed in Parliament - at least assented to - on the 18th May, 1987, just a week before the Integrity in Public Life Act was assented to. They came within a week of each other. And what did that Act do? It repealed the old Prevention of Corruption Act, the 1921 Act. It widened the scope of the Corruption Law to specifically include members of Parliament, members of both the House of Representatives and the Senate, members of the Cabinet, members of the Tobago House of Assembly and all members of Local, Statutory and Public Authorities.

It is interesting, Sir, I don’t know whether that has been mentioned before during the course of the Symposium, but it is very important to know, that the Act specifically made reference in the definition section of the Act to those very persons.

The Act also specifically made the use of what is now commonly called, when one is discussing Integrity Legislation, "insider information" - specifically made the use of "insider information" for gain, reward or advantage, an offence at Section 5 of the Prevention of Corruption Act.

The Act also provided for very severe penalties. Anyone found guilty under the Act is subject to a fine of five hundred thousand dollars and ten (10) years
imprisonment. And one will also be required to repay the reward or bribe that one may have got in the course of the dealing.

And in addition to that, a person found guilty will be judged incapable for seven years of being registered as an elector, or being able to vote and by implication being able to be a member of the Parliament.

Just to summarize the provisions of the Act, the scope of the Act is, generally, that it made an offence the corruptly giving or receiving any gift or loan or fee or reward or advantage as an inducement for a person doing or forbearing to do anything in respect of any matter or transaction involving the State or Public Body.

Interestingly enough, in that Act the police have been given power to search for records and documents where there is reasonable cause to believe that a person has committed a crime, so that even before an arrest, a Police Officer above the rank of Inspector, has authority - first he must go to a judge on ex parte application to get that authority - to investigate records and so on.

I think this piece of legislation is a very important piece of legislation. It has to go hand in hand with the "Integrity in Public Life Act". When we look at them together, we see that may be - in fact, there really isn't any pressing need at this stage, to amend the Integrity in Public Life Act. In any event, any attempt to amend that Act, as Sir Ellis Clarke indicated a couple of days ago, will involve what in fact will be an amendment to Sections 138 and 139 of the Constitution. To effect any such amendment indeed one would have to get a special majority, a three-quarters majority, in Parliament. So that it will be extremely difficult, in my respectful submission, to amend the Integrity and Public Life Act in any serious kind of way. I think that what is needed really is an "effective Investigative Unit" within the Police Service that has the skill and expertise to investigate fraud and corruption in a very serious kind of way.

If I may make a plug for the administration to which I belonged, there was set up in the Ministry of National Security a unit called "the Economic Crime Unit". It was headed by one of the most experienced policemen in the Service - Mr. Lance Selman. That was established prior to the NAR going out of office and the whole purpose of that unit was to develop expertise and efficiency in dealing with "white collar crime", the kind of crime that Members of Parliament and high ranking officials of the Government might commit.
What we need to do is to develop highly trained investigators with skills in law, in forensic accounting and even in business management, that they will be able to investigate properly the kind of crimes that we are talking about here.

It is interesting to note, too, is that after completing the enactment of the two Acts - the Integrity in Public Life Act, and the Prevention of Corruption Act, the Parliament then put before it for discussion a Code of Ethics for Parliamentarians and for Ministers and Parliamentary Secretaries. That document was laid in the Parliament on the 13th of March, 1987. So, you see, what you have is a compendium of legislation and other documents, trying to get the global view in the matter of dealing with the problem Integrity in Public Life. And the Code Of Ethics was put before the Parliament, both the House of Representatives and the Senate. It was adopted by the House of Representatives on the 1st of July, 1988, a little more than a year afterwards.

The Senate, I do not believe adopted the Code of Ethics. It does not have the force of law, but it is a Code that Parliamentarians, Members of the House of Representatives, are expected to follow in the course of their dealings in the Parliament.

The code says:

1. In any debate or proceeding of a House or its committees, or in any transactions, or communications which a member may have with other Members or with Ministers or servants of the State, he shall disclose any relevant pecuniary interest or benefit of whatever nature, whether direct or indirect, that he may have had, or may have or may be expecting to have.

2. A declaration of interest should be made at the earliest opportunity when speaking in debate or taking part in committee proceedings.

6. A Parliamentarian should avoid situations in which his private interest, whether pecuniary or otherwise, conflicts or might reasonable be thought to conflict with his public duty.
And then:

9. A Parliamentarian should not use information obtained in the course of official duties to gain directly or indirectly a pecuniary advantage for himself or for any other person. In particular, a parliamentarian should scrupulously avoid investments or other transactions about which he has, or might reasonably be thought to have, early or confidential information which might confer on him an unfair or improper advantage over other persons.

Then, we look at some of the codes relating to the Ministers and I would read just three of them. It says:

14. At meetings of the Cabinet on its committees, a Minister should disclose to his colleagues when he has an interest which does, or might reasonably be thought likely to, conflict with his public duty as a Minister; his declaration should be noted in the Cabinet records; and the Minister should then either indicate that he will not take part in the discussion in question or else secure the explicit authorization of his colleagues for taking part.

15. When directing the business of the department which he administers, a Minister should inform the Prime Minister of any real or apparent conflict of interest that arises. The Prime Minister, unless he asks the Minister to divest himself of the interest, should either arrange for another Minister to deal with the matter or else give explicit authorization to the original Minister to proceed with it; and in any event, the Prime Minister should have the matter recorded.

16. A Code of Ethics concerning gifts received by Ministers should be established; and guidelines concerning acceptance of sponsored overseas travel be drawn up.

These are some of the codes of behaviour, by which certainly the administration to which I belonged subscribed.

Dealing with the penalties generally in the Integrity in Public Life Act, I think, having regard to the severe penalties that we have already talked about in the Prevention of Corruption Act, that the penalties generally are adequate in the Integrity in Public Life Act because as I say you have the Prevention of Corruption Act that one can be tried under for similar sorts of things.
I also want to make reference to an obscure, but very important, I think, piece of legislation and it’s very early in our Statute books. It is called the House of Representatives Powers and Privileges Act. Chapter 2 No. 2 provides for certain immunities for Member of the House of Representatives and members of the Senate. But interestingly enough, Section 13 (1) of that Act States - and I read:

"No Member shall accept or receive either directly or indirectly any bribe, fee, compensation, gift or reward for or in respect of, or in connection with the promotion or opposition to any bill, resolution, matter or thing submitted or intended to be submitted for the consideration of the House or any Committee".

And it goes on in Subsection (2).

"Any person who contravenes the Section is liable to a fine of ten thousand dollars and in addition shall forfeit the amount or value of the bribe, fee, compensation gift or reward accepted or received by him".

So that you have yet another piece of legislation by which members of Parliament can be dealt with.

In England, what you have operating that we don’t have here is a "Register of Members Interests", where members of the Parliament are required to, on a yearly basis, disclose certain interests.

I think if we are going to have any amendment to the whole Body of Law dealing with Integrity, particularly with Integrity in the Parliament, I think we ought to seriously consider the introduction of such a Register in the Parliament. Firstly, by Resolution - In England it is not a law it is just a covention of the Parliament which is followed. And the purpose of the Register in England is to provide information on any pecuniary interest or other material benefit which a member might receive, which might be thought to affect his conduct as a member, or influence his actions, speeches or vote in Parliament. And members are required to have this general purpose in mind when determining what interests they should properly declare.

The scope of the Register seeks to balance, on the one hand, what should be publicly known about members of Parliament, with, on the other hand, the proper degree of privacy to which they and their families are entitled.
They are not required to disclose any amount of remuneration or the benefit that they may have, nor the interests of spouse or children except in circumstances relating to shareholdings. It is left to individual members with or without the advice of the Registrar, who is the person responsible for receiving these declarations, - it is left for the individual members to give the required information and any inconsistencies in style or content that are recorded in the Register, spring from that fact.

Each member is responsible for what is recorded about himself here, and each is answerable to his fellow members and to the public. So if I am to make a recommendation, I would think that we ought to seriously consider making law, by Statute, the Code of Ethics that already exists for Parliamentarians and for Ministers.

And we ought also, to seriously consider the introduction of a Register of Interest, introducing that into law also by Statute, as has been done in jurisdictions in Canada, both in Ontario and in new Foundland.

So to summarize, I would like to say that a lot has been done to legislate for integrity in public life in Trinidad and Tobago. We have had the Compendium of laws, The Integrity in Public life Act 1987; The Corruption Act of 1987; The Code of Ethics of 1988; The House of Representatives Powers and Privileges Act - this Act probably goes back to nearly the beginning of the century maybe.

Then there is the Economic Crime Unit which I say needs to be beefed up, so that serious investigations will take place.

I think also, that the Integrity Commission should be provided with an ad hoc Special Investigator from time to time. Most importantly if we are to get anywhere or to advance the cause of integrity in public life - I think the leadership of the country has to be serious about integrity and accountability, a leadership that will at least say something when a Parliamentary Secretary is named in the Gazette for not submitting Declarations for two years; a leadership that will be represented at the Head Table in the opening of this very important Symposium, a leadership that will say something, a Government that would say something on such an important occasion; a leadership and a Government that would be represented in a panel discussion such as this.

I think the coincidences are a little too frequent. And what I would say in ending is that it is no accident that the last Administration enjoyed such a reputation for integrity.

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We have been told of delays in the administration of justice. These, no doubt, do exist. My experience, however, has been that a great deal of delay in the administration of justice can be laid fairly and squarely at the door of the lawyers involved.

I, myself, have said before that, if I were charged with an offence in any one of the Caribbean Islands, I am sure that I know what I call "the professional adjourner;" and that my case will never, ever be heard. These are the facts of life.

The law always has to be one step behind the morals of the country. When America brought in the prohibition era, that did not stop drinking. As a matter of fact, it made drinking more popular, and people got more wealthy out of drinking. It is not by accident that adultery is not a crime. And it is not unusual to find that conduct which we should regard as reprehensible, such as driving under the influence of alcohol, does not attract public condemnation. Rather, Man being what he is says: "There but for the grace of God go I."

In England they invented the crime of "causing death by dangerous driving," simply because they could not get a conviction for "manslaughter from driving." They just could not get it. So they invented, "causing death by dangerous driving." And now they can't get one for that either.

That there should be sanctions for breaches of the law is clear; I can't tell you what amount of sanctions there should be. But if you make the law too draconian, it would never be enforced, on the basis of, "There, but for the grace of God go I."

So that countries will have to determine for themselves what levels of punishment fit the offences which are created.

I hesitate - I'll go the other way around - I do not like the idea of having a Private Investigator or a Special Investigator. This is as far as I go. We have been exposed to this sort of phenomenon - CNN and various television stations.

And we see these reports and discussions going on, quite out of context, and we say "This would be a good thing. Judges should be brought up before the Senate or the Parliament and be cross-examined and then afterwards he'll be made a Judge." If we did that, none of us would survive. We would get no Judges at all because who would want to go and face that barrage? So that I think the Private Investigator would be a mistake. You would be opening yourself up to having private
investigators for everything, in all walks of life, for everything; and your fundamental rights and freedoms will be invaded.

I am hoping that what I have been hearing during the last couple of days have been men speaking with tongue-in-cheek and in the role of devil's advocate, in the main; but I don't think that we should, for a minute, give up hope. I can assure you that I am going to go back to my post, ever thankful for having come here. I shall try to see if I can't get Integrity Legislation there with teeth. Benefitting from the experience which I have gained here, I will be working on it; and if I do have a bill, I will send it to your Integrity Commissioner, for his comments.

---OOO---

Justice Gregory Evans

We have talked about patronage. Canada and Ontario are not exempt from patronage. There seems to be a current view that, when a Prime Minister is retiring, he makes a flood of appointments in which competence as an individual, for a particular office, is purely accidental. Fortunately, however, they have stayed clear of the Judiciary.

It has been said that people get the government they deserve, because the general public shows a profound lack of interest in public affairs. I have a great respect for those people who offer and present themselves for election and face the barrage of publicity that usually follows, and who, when elected, diligently perform the duties of office. Similarly, I have a profound disrespect for those who use their political office to line their own pockets or those of their friends.

A principle of our legislation in Ontario is that people should be charged with the responsibility of imposing penalties upon members who breach the Act. When a complaint is received by a particular office, I decide whether to deal with it informally, or by way of a formal inquiry, under the Inquiries Act.

In the first one, it comes in by way of asking for an opinion; and that request comes either from a Member of the Legislature or from the Executive or from the House at home. All I can do, then, is to give an opinion as to whether I think there has been a breach or not. Then, I leave it up to the Legislature to deal with it.
However, when it comes to the matter of a formal inquiry under the Inquiries Act, I have much more leeway and much greater responsibility. Of course, the member against whom the complaint is lodged is duly notified and given an opportunity to be represented or to make whatever defence he/she wishes to make.

But I have the right to select Commission Counsel and the Investigators. I do not go back to the Government to say “Give me an Assistant Crown Attorney” or “Give me somebody from your staff.” I pick whomever I wish, in the belief that it would keep him/her free from the pressure of the government. Then I make a report to the government, to the legislature, as a whole; and they must act upon it within a certain time.

All I can do is to recommend either a reprimand, or that the seat be declared vacant, and that a bye-election, in due course, should be held. But it’s the responsibility of the legislature to implement that. If they don’t want to, well, that’s their responsibility; and they’ll answer to that in the next election. I suppose if I was wrong too often, I would take off and there wouldn’t be any great problem with me any longer there. So far, we have not had a public inquiry. My own experience in public inquiries was in Nova Scotia, when a black boy was sentenced to life imprisonment for a murder that he did not commit. It turned out to be a big thriller, however, because they later discovered who the man was who did it, and he was brought on trial. But, they couldn’t begin the trial until they got rid of the conviction against Ronald Marshall. So they choose Commissioners. All of us were Chief Justices - one from Nova Scotia, one from New Foundland, one from Quebec, and one from Ontario. Part of our mandate was to look at the police enquiry and the general administration of justice.

The government was very happy to give us this mandate. They were being barraged with publicity of all that had occurred, so they had to slot this out to the Commissioners. Unfortunately, they gave us pretty wide powers, but when we wanted the files the government blocked.

We then had to go to Court to get the files from the Government who appointed us to do this. That did not increase our popularity in the minds of the Government. Anyway we got the files and then we had to subpoena some Judges. We tried to do that, and finally wound up in the Supreme Court of Canada.
The point I am trying to make is that we had our own Commission Counsel; we had our own Investigators. We had to work, but I am quite satisfied that we did a good job. Finally, there was an admission, almost - Judges rarely make an admission that they have made an error - but in this case they were satisfied that they had made an error. There is nothing wrong with an Investigator, in any branch of Government, whether it is the Legislative branch, the Executive branch or the Judicial branch of Government.

I would also like to say to you that you can have all the tough laws that you want - and we heard of many tough laws this morning from the former Attorney General’s Office. But what is the good of tough laws if you do not have tough enforcement? This is where the problem arises.

I've heard our friends, legal friends, speak about delays. We have delays, too. The Supreme Court of Canada finally said:

"Any case that has not proceeded within six or nine months, unless there was a very good excuse, hold it."

If I had any authority I'd leave it for a while; but it certainly stirred things up. Being a former defence lawyer, I know you can prolong cases for some time. But in the jurisdiction in which I operated as a lawyer, which was in the northern region of Canada - really, Ontario - we had a tough-minded Judge who said; "One adjournment. Two weeks and that's it. You have got to proceed to trial."

He had a clean slate. I think justice was done because there was no long delay. There is no justice if a man is held for ten or twelve years in custody before trial. That's not justice as we know it.

---OOO---

Mr. Warner  
(Participant from the floor)

Of the problems that we have talked about, the biggest problems in the world start with the Police Service. In any country in any part of the world that institution is of the utmost importance. Without the Police Service, people could walk into anybody’s house, and take what they want, or who they want.
Session 4: Mr. Warner
( Participant from the floor)

The only way you would have a modern society is if you have that proper protection. Protection, with preservation, is the first and utmost important thing to the human being.

So I say that integrity has to start right there. That is the most important aspect of integrity to the human being - the integrity of the Police Service, of the protective service.

---OOO---

Brian des Vignes

As a Commission, we are not really so concerned about the question of punishment. What we are hoping for is to have the present legislation amended in such a fashion that it acts as a deterrent, not necessarily by saying that if you do something that is in breach of this legislation, you will go to jail for twenty years. That is not the idea. The idea, really, is to make the legislation have a little bit more meaning so that people take it a little bit more seriously.

The point has been raised earlier, by one of the panelists, that the law must keep one step behind the public's view and the public standard of morals. If everyone in the public feels that there is nothing wrong with people in public office acting in a fashion which lines their pockets, well, so be it, if that is the feeling of the public. But if the feeling of the public is that people in public office must maintain a certain standard of behaviour; must maintain a certain standard of responsibility; must maintain certain very high standards of leadership, then the legislation must reflect that; and the legislation must be set up in such a fashion that the people who are governed by that legislation will think twice before they step out of line.

Now, the difficulties that this Commission - from a study of this legislation over the years - has appreciated is that the legislation is just one step. There are a number of very practical difficulties. If you tell an elected officer that he must come and disclose to you his financial affairs, the purpose of that is not merely just to mind his business. The purpose of that is that he must feel free to come and say, "This is what I had before; this is what I had during public office; this is what I went out with." And there is a new term creeping into the international arena called 'transparency,' where the feeling is that whatever governments do, and whatever public officers do, must be transparent. The public must be able to look at it and see it quite clearly. There must be nothing hidden.
If you tell a public officer to disclose that, we feel that it must also be clear as to what is the position with respect to his immediate family because he may put everything in the name of his wife and you never have a clear picture. So we think that a complete picture is that he must disclose what he has, and what his wife and minor children have.

There is, also, the thought that we could go the way of the Canadians, who have said it is not sufficient just to appoint five people, as you have here in Trinidad, or one person as you have in Ontario, who will look at this declaration and have the responsibility for making sure it looks all right and if it is not, to do certain things.

In Canada what is prepared is a 'Public Disclosure Statement' where the Commission verifies the information and then gives a very brief detail of it, and that detail is open for public scrutiny. So that John Brown, who is a Member of Parliament for wherever, will have his affairs known to the public. He has one house in which he lives with his family; he has one car and he may have a substantial interest in shares in banks. The public may have a right to know that, so when there is legislation which affects the operations of banks, the public will know that that gentleman has a substantial interest in banks. That interest will be known before, so that whatever he says will be taken in the light of the fact that he does have an interest, which he is not hiding from anybody. So that is one of the difficulties we think we see and we think that must be addressed.

The other difficulty, to come to one of the points made by one of the panelists, is that there are, in fact, a number of offences set out in the Act, the main offence being failing to make disclosure or to make a disclosure that is false.

The point we raised about the Special Investigator is not really that we need to have a Special Investigator along the lines that the Americans have, but really to have somebody who can verify this information. What we are saying is, we must have access to the normal, regular investigatory services in the country, because without that, what the Act says is that if we suspect that something is wrong, we cannot investigate.

What we have to do is to go back to Section 23 which says:

"Where the Commission considers it necessary or expedient to enquire into the accuracy or fullness of a declaration the Commission may advise the President to establish a tribunal."
Now, that is very nice in words. In practice, it causes a difficulty in that one does not go to the President lightly. One will have to go to the President with information, because the President himself is not convening a Commission of Enquiry like that.

Once someone is under investigation by a Commission of Enquiry, that in itself is, to some extent, condemnation of that person. That person is certainly under suspicion. But where does the Integrity Commission get this information from? It has no authority even to accept information from somebody coming off the streets and saying, 'Here is all of this.' It has to be checked and there is no way of checking it without the Commission of Enquiry, and the Commission of Enquiry will never be convened by the President unless he is satisfied that there is a need for it. So that you get back to the basic principles about the Constitution, about *prima facie* cases that have to be made out before anything can be done. So that is one of the practical problems that need to be solved, not so much the question of our having an investigator who will run around checking on all these people who give returns, but really having access and the authority to enquire properly.

I have tried to clear up some of the matters that have been raised, and to answer Mr. Augustus' point, the playing field is supposed to be level for each and every single one of us in this country. We are all subject to the same laws and that is the way we must work.

---OOO---

Winston Ganessingh
(Participant from the floor)

We have in Trinidad persons from the private sector, who are at present involved as directors of State corporations. We recognise that their positions present, or could present, a conflict of interest in terms of interlocking directorships. What is the Commission's view, or the views of members of the panel, on my submission that there should be some sort of methodology whereby persons, who are in these areas where they wear two hats, should be recognised by somebody on the Commission so that subsequent actions can be taken in terms of, if something happens, what could have gone wrong in the decision-making process of persons in the Private Sector who are also involved in the State Sector and other committees like this.

---OOO---
As Mr. Smart has said, the question of insider information is to some extent covered in the "Prevention of Corruption Act". Insider Information and the abuse of insider information is not really something that is very new to Trinidad. We are a very, very small country in which everybody tends to know everybody, and to a great extent everybody knows everybody else's business. It's very easy for people to abuse that knowledge.

What you will find is that in this country we have not really developed any proper ways of dealing with that in the way that it has been dealt with in, say, North America.

One of the suggestions we have is that people must declare their interest in certain areas and the use of the Public Disclosure Statement does that.

If you are a Member of Parliament, say, and you declare to the Commission that you have the majority shareholding in all the banks in Trinidad, the Commission gets that information and it is mandated to be very, very secret about it. The penalties on the Members of the Commission for disclosing that information are virtually as serious as the penalties imposed on people who breach the Act. So that, we can't do anything about it, which is another problem, so that this Member of Parliament then gets up and proposes all sort of legislation and changes to the way banks do business and it may be totally at the expense of the public but we must keep silent. We have absolutely nobody to whom we could tell that.

The Public Disclosure Statement is one way of getting around that, but you have all sorts of overlapping directorates and all sorts of very complex kinds of problems and you agree, we can't do it the way it's done abroad. So maybe making something thing public is the short term answer.

---OOO---

Senator Martin Daly

I think that the last member of the audience has raised a very important point. Mr. Smart has dealt with it partly by suggesting that Parliamentarians should have a Register of Interest so that people would know if they are seeking any particular interest.
One of the things to take care of - the difficulty which the speaker is raising - is that the Stock Exchange has to play a role in this as well; and the persons who are involved with publicly listed Companies should be required to make a statement, not just the Directors. Directors of Public-listed Companies should be required to make a statement similar to that which has been proposed by Mr. Smart, so that people would know if they accept other appointments, particularly in the public sector, to which you are referring. People would know whether there is any potential for conflict of interest. That’s one suggestion I’d like to make. I’d like to see the Stock Exchange involved in that.

---OOO---

Justice Evan Rees

Having read the newspaper this morning - that is, the "Trinidad Guardian", the editorial - I thought I should read what is said there, because it’s so applicable to everything that has happened here today.

It reads thus -

But "... laws cannot create integrity; ... it is impossible to legislate goodness into a group of officials or even into the society. Integrity may be considered a state of mind ..."

Mr. Capildeo and Mr. Daly were the ones who really pointed out that you have a lot of legislation in this country; you have all sorts of statutes to do this, that and the other. But there is no implementation. What is the use of it all? You are going to amend - you are going to amend, "yes", but is it bringing us any further? I think more than that is necessary. We can talk about integrity, all morning, all afternoon

"We can pass laws to deal with integrity but unless our leaders and exemplars are committed to maintain it in every way, then not only the public interest but the society as a whole is affected."

That is it. That is the whole matter in essence.
SESSION 5

INTEGRITY IN BUSINESS AND
THE INFLUENCE OF BUSINESS
ON THE PUBLIC OFFICIAL
SESSION 5
THE MODERATOR AND PANELISTS

Moderator

DIANA MARY MAHABIR-WYATT

Independent Member of the Senate, Republic of Trinidad and Tobago

Partner and Director of the Consulting Firm - Personnel Management Ltd. Well known for her expertise in Industrial Relations, Management Training and Human Resource Development. Graduate of McGill University, Canada. Served for thirteen years as Employer’s Delegate from Trinidad and Tobago to the International Labour Organization (ILO) Conference in Geneva. Founding member of the National Training Board, Junior Achievement and the Trinidad and Tobago Small Business Development Foundation. Also founder and Chairperson of the Shelter, a home for battered women and children, in Trinidad and Tobago.

---OOO---

Panelists

DR. EMRU MILLETTE

Director of the Employers Consultative Association (E.C.A.) in Trinidad and Tobago. Recently made Deputy Member of the Governing Body of the International Labour Organization. Has been involved for many years in various aspects of business and has served on many Business Committees and Commissions.

---OOO---
WADE MARK

Member of the Senate of the Republic of Trinidad and Tobago.

Chairman of the Parliamentary Opposition, United National Congress (U.N.C.). Currently, Leader of Opposition business in the Senate. Graduate of the University of the West Indies, St. Augustine, Trinidad. Serves as Education and Research Officer of the Bank and General Workers Union and Assistant General Secretary of (NATUC) National Trade Union Congress.

---OOO---

FATHER MICHEL DE VERTEUIL

Roman Catholic Priest. Member of the Holy Ghost Father’s since June, 1991. Served as Editor of the Catholic News Newspaper. Director of the Archdiocesan Pastoral Centre, a centre for lay Training in Trinidad and Tobago.

---OOO---

GLENROY BAPTISTE

President of the Southern Chamber of Industry and Commerce of the Republic of Trinidad and Tobago. Managing Director of his own Custom Brokerage Firm. A former Customs and Excise Officer in the Public Service of Trinidad and Tobago. Worked as a shipping agent and with several oil companies.

---OOO---
Panelists

NEIL ROLINGSON

Chief Executive Office of the Point Lisas Industrial Port Development Corporation Ltd (PLIPDECO) in Trinidad. Served as Marketing Economist with the Republic Bank Limited and Chairman of the Small Business Development Company.

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DR. MOHAMMED A. AZIZ, MD., FRCS., CMT.

Consultant Otolaryngologist and Head and Neck Surgeon. Retired Consultant, ENT and Head and Neck Surgeon in the Ministry of Health of Trinidad and Tobago. Former President and Religious Adviser, Trinidad Muslim League. Member of the Inter Religious Organization of Trinidad and Tobago. Medical Adviser and Vice Chairman of the Trinidad and Tobago Red Cross Society. Chairman of Abdul Aziz Trust and Aziza Tours and Travel Service in Trinidad and Tobago.

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Central to the discussions on this topic was the general concern of the panelists that there is necessarily a close correlation and inseparable and organic link between the activities in the private and public sector including the prevalence of poor ethical standards and corrupt practices as demonstrated in the daily manifestation of fraudulent and corrupt behaviour, bribery, incompetence and poor management.

These practices prevail under a veil of secrecy; and even when discovered are not addressed or deterred but, rather, are condoned, through the acceptance or encouragement of such behaviour, and the absence of taking any steps or instituting any measures to prevent or punish those concerned.

There are laws on the statute books which are concerned with such matters as the sale of goods, the activities of companies and other businesses, consumer credit and protection, trading in securities. Professional codes of ethics also provide for standards of conduct which are designed to maintain and secure the integrity of such professions.

But, despite the presence of all these measures, such practices as acceptance of gifts in return for favours, insider trading, influence peddling and the conclusion of "deals" are all too pervasive and are allowed to continue unabated and unchecked.

In addressing these ills, several factors were identified as being responsible for or contributing to, and also facilitating, such behaviour e.g. where there is -

(a) a negation of moral norms in the conduct of one's life and in the affairs of business life;

(b) a non-recognition of the universal brotherhood of man;

(c) the denial of the right to the equitable enjoyment of the nation's natural resources and patrimony and the lack of curtailment of freedom of the individual within the context of social welfare;
(d) no sound religious foundation in one's life to create the ethical atmosphere that would influence human behaviour in all spheres of endeavour;

(e) an absence and lack of awareness within the school system and more so, in the family unit as regards the social, economical and political environment in which they live;

(f) the element of bureaucratic constraints and poor administration, including mismanagement, which impel individuals to act in ways far below the acceptable norms of behaviour in their business activities.

Arising from the discussions, there emerged a well nigh total agreement that corrupt practices in all forms do exist and are practised in Trinidad and Tobago, and that remedial measures are necessary to reduce and control the incidence of such practices with a view to the elimination thereof. There are several ways to achieve these purposes; and principal among these are:-

(1) bridging the gap that exists among the religious communities in the field of ethics by dialogue and, if necessary, some form of public debate thereon;

(2) the school system and the family ought to be more sensitized as regards their role and function in developing in the children an awareness and the significance of morality and ethical behaviour in their conduct, and behaviour, not only at home and at school but in every facet of life;

(3) the establishment by the business community of a self-regulatory mechanism which will clearly set out standards of conduct in a Code of Business Ethics designed to embrace the activities of the private sector;
(4) the passing of appropriate legislation in the form of a Criminal Code designed to govern and regulate the activities of Ministers and other Members of Parliament, and also public officials, in their daily interaction with the private sector. Such legislation would necessarily consider the influence which either side can exert on the other, and the minimum standards of behaviour that will be consistent and expected in such interaction, especially in the context of conflicts of interest, involving such matters as gifts, loans, entertainment, interest in other related businesses and organizations, insider trading, the use of one's public office or influence in private business for self-enrichment directly or indirectly, and whether through bribery and or the misuse and corrupt disclosure of official information;

(5) expanding and improving the role, functions, powers and duties of the Integrity Commission in respect of full disclosure of interest of designated persons holding office, whether public or in State-owned or other National Bodies so as to ensure that there is not only compliance but also that disclosures are full and frank;

(6) the establishment of a Joint Select Committee of Parliament which will be charged with the responsibility of monitoring and reviewing the work and activities of the Commission and recommending such changes as may be necessary having regard to changing trends, practices and conduct.

In this Session of the Symposium a useful paper on "Employer Ethics for Corporate Longevity" was presented by one of the panelists which highlighted the conceptual, idealistic, factual bases and influences that affect and govern the behavioural patterns and decisions of corporate activities.
"In the best of all possible worlds, all people would not only profess virtue but would practise it. However, in our imperfect society greed frequently overcomes honesty and temptation tarnishes personal integrity". This quote, so true, is taken from the 1991/92 Annual Report of the Commissioner on Conflict of Interest, Toronto, Ontario, and was written by our honoured guest, the Honourable Gregory Evans, Commissioner.

This Session deals with the subject of "Integrity in Business and the Influence of Business on the Public Official". Under this heading, the following would be dealt with:

- Conflict of interest,
- Insider trading,
- The Acceptance of Gifts,
- Influence Peddling, and
- Lobbying.

The underlying factor, which is common to these, is "Corruption", which can be described as the misuse of public power for private profit, arising from the practice by which officials require payment before approving major purchases and development. It is important to recognise that where corruption is rife - and I am speaking generally - there can be found senior officials who are absolutely honest. These officials deserve our appreciation and admiration, particularly when they receive poor salaries and can see their colleagues earning their pensions by such enrichments. It is not surprising that such men are becoming a rare species.

How does it work? Corruption generally arises from the interaction of Government as buyers and the private sector as sellers. Opportunities arise through the sale of capital goods, major projects, supplies, and consultancy services. The potential beneficiaries are those in positions to make or influence Government-purchasing decisions, that is, senior public officials.
Three main factors that seem to make a transaction conducive to corruption are

(1) Size - the bigger the size of a purchase or project, the bigger the potential take;

(2) Immediacy - some politicians know that their term of office may be brief. A pay-day at some remote time is not very interesting;

(3) The other is Mystification. A high technological contract is attractive because it makes price comparison very difficult. A cargo of cement has a calculable value; but who knows the fair price of a sophisticated piece of equipment?

But surely, it will be argued, large and reputable companies do not bribe people. Indeed, they do not. However, they may appoint an agent or representative who is likely to be a man of standing in the community with whom they may wish to do business, sometimes a lawyer, accountant or senior businessman. He can provide a range of valuable services, such as obtaining visas, meeting visitors at the airport, arranging accommodation and transport, advising on local finance and taxation and making appointments with the top officials and Ministers. In return for all of this, he may receive a success-related fee, perhaps five (5) or even fifteen (15) per cent of the value of the business secured.

What reputable company needs to bribe anybody, when it has an agent capable of ensuring that things run smoothly? In the last resort, if a favoured supplier does not get the business, he can always abort the tender and start again.

It is not, of course, suggested that all contracts are manipulated for corrupt reasons. The principal criteria in deciding from whom a purchase will be made should be quality and cost, with other considerations, such a credit terms and delivery, taken into account. When personal gain becomes a factor, it rapidly becomes "the factor" and all others fade into insignificance.

Two main areas of damage arise from the suspension of sound and critical decision-making.

The first is that the wrong suppliers or contractors are liable to be chosen.
The second, which has led to some of the worst development catastrophes, is that totally unnecessary and inappropriate purchases are made.

Even more costly than choosing the wrong supplier or contractor, is choosing for a project, supplies which are not needed at all.

Corruption will not be easily eliminated, but there is the belief that it can be greatly reduced if proper controls are put in place. The task seems formidable, but it may be worthwhile to record the words of the Anglo-Irish Statesman, Edmund Burke:

"The only thing necessary for the triumph of evil, is for good men to do nothing."

---OOO---

Dr. Mohamed A. Aziz

The employer and employee relationship must be established on a harmonious, peaceful and mutual-interest basis, and equity and efficiency should be the main active ingredients.

Technically, equity would imply that a compensation scheme should provide an adequate supply of real goods and services to the employee per unit of time, so that each worker can afford at least a minimum level of decent living.

The second component of that equation, "efficiency," is that the workers, or the employer, must not suffer loss because of poor production and low profitability. This is in the interests, both of the business and of the worker. These are moral issues that, if adhered to, will result in the integrity of that business being beyond reproach. We believe that man can only have what he strives for, and that on no one shoulder does God place a burden greater than that soul can bear.

The legal provision should be fortified with moral persuasion. I believe that there is legislation now, or contemplated to be introduced, to see that, in addition to moral and ethical suasion, the law will come in to ensure that the practice of integrity and ethics will be observed.

Without moral support, legal provisions are of little practical significance in this inter-relationship.
Conflict of interest is a very difficult problem to deal with adequately, as there are areas, grey areas, which are difficult sometimes to bring out, but which involve blatant conflict of interest. There may also be insidious or hidden areas of conflict of interest, through speculative schemes financed by financiers with direct interest in the outcome of that investment.

The award of contracts, by Directors or by the Director's company or Associates, can be done through undue influence in the tendering. Similarly, the funding of financial institutions, particularly, may concern senior officers in the government - another area where can arise conflict of interest, or influence peddling.

So that, an effective legal barrier to corruption may be to make influence peddling and misappropriation of funds a criminal act.

Recently, in the papers, it was reported that in Venezuela a Bill was hurriedly passed to de-criminalise misappropriation of funds. This was to be left, not to the Courts, but to be dealt with by an administrative authority. The most that one could get out of that would be dismissal or reprimand. However, the Chief Justice of that country's Supreme Court thought that the Bill was counter-productive and negative. I think the law, then, was left to take its true course.

The "mutual agreement" of two parties has no validity in a transaction which is not based on justice and equity, and which is not devoid of any trace of ambiguity or exploitation.

Insider-trading and interlocking directorates again, I think, opened the gateway to have corruption and to have the integrity of that person or company tarnished.

So that, I feel it is very important for us to have a strong Integrity Commission which is given the power and the teeth to carry out their functions and to see that as far as possible, we can have Integrity and Ethics established in all, not only in public life - government - but also in private industry, particularly where we have large companies, trans-national corporations, coming into Trinidad and Tobago, and which can open the gateway for all sorts of corruption.
My first serious contact with this enormous question of Integrity in Public life - the first one that I recall anyway - took place in 1961, when I was a student. I was listening to the 'Goon Show' and there was an episode where Peter Sellers and Harry Seacombe had just come out of the palace gates, having stolen the 'Crown Jewels', and after this enormous effort, they put the 'Crown Jewels' on the front seat of the Prefect and they went across the street to purchase some fish and chips. They enjoyed the fish and chips and came back to the Prefect to find that the 'Crown Jewels' had gone. Harry Seacombe exclaimed to Peter Sellers, "My God! What's happening to England? There's nothing sacred anymore."

I think that in that epigraph, that small comment, lies so much of the tension that business people must face between Integrity, as a personal virtue and the demands that are made on them, especially at the senior levels of Organizations - as Corporate people.

Friedman is most frequently quoted by students; and he takes another view. The fundamental view of Friedman is, I think, contained in the quotation:

"There is one, and only one, social responsibility of business. That is, to use its resources and engage in activities designed to increase its profits, so long as it engages in open and free competition without deception or fraud."

Another author, called Andrews, admits that - there is a tremendous pressure being exerted on corporations and Corporate Executives to exercise voluntary restraint on profit maximisation, by such activities as contributions to education and other charities; selection of ethical levels of operation higher than minimum required by law and custom; and other methods and the ways that he talks about. He contends that the accomplishment of a social responsibility requires the adoption of a consistent corporate strategy and organizational behaviour with this goal in mind. So that, he is a little bit different from Friedman.

Carr is another author who has addressed this subject of "Integrity in Public and Corporate Life". He writes as follows:

"If the law, as written, gives a man a wide, open chance to make a killing, he will be a fool not to take advantage of it. If he does not, somebody else will."

And that is, in essence, the thesis which Carr advances.
He talks about, he addresses, the problem of integrity and morality by saying that what is required in business is essentially the behaviour that is required to be the good poker player. And someone who wins at poker is not necessarily immoral.

There are other people who have addressed the subject. Sherwin, for example, talks about ethics as the discipline that he considers the justification people offer for the principles and values they hold. He also says that the corporation has a social responsibility and he talks about how this can be addressed.

But one final author, Ciulla, goes into further details on this and talks about the pull which exists between personal belief, personal morality and the social or the corporate morality. And he says - if I may give one quotation:

"One could not discuss the nature of a morally good person without discussing the social conditions necessary for developing and sustaining such people. Personal morality requires certain institutional or organizational arrangements".

And he re-enforces the view expressed by a previous author that the conditions in the corporation must be such as to conduce personal morality; or else the immediate objective of the corporation of maximisation of benefits produces certain tensions on the individual which can produce calamity.

---OOO---

Fr. Michel De Verteull

The very first point that I would like to make is that the legislation of morality only makes sense within a general context of a certain ethical atmosphere. It cannot work without that. Therefore, we all have a stake in bringing about an atmosphere within which, then, the legislation can be effective.

One of the big problems that we have at the moment is the divorce between social affairs and faith or religion. And the churches and the faiths may be responsible for making the link, then, between the teachings that faith has, and propounds, and social affairs.

I would feel that history shows us that there can be no serious ethics that do not have some kind of religious base. And that any religion that does not have some kind of public ethical dimension is falling in what it's meant to be.
Therefore, I feel that there must be an elaboration of ethics by the churches and the faiths; for here in Trinidad and Tobago we have faiths as well as churches. That is, you have the simple, ethical rules that are saying “You must not steal; You must not kill”; and you must not do these things, but ethics is much more than that; ethics is a whole science. Except ethics goes into the question of conflict of values, for example, then it is really abdicating its responsibility.

Though you teach ethics - and the Honourable Gregory Evans has stressed that, and several people mentioned that you need to teach ethics in schools - ethics is an adult science and there should be some way in which the churches and faiths can reflect on their beliefs in the light of the adult situation of the society.

Certainly, for the Christian tradition, a difficult tradition, the purpose of ethics is that there should be no poor; that poverty in any society is a sign that rules of ethics are not being observed. And that is the punishment. Sometimes people think that the biblical teaching is that God punishes when there is immorality; that is to say that God stands outside. We are all having a good time, but God is not happy because his laws are not being obeyed so He punishes us. But, in fact, what the Bible says is that there is an inner dynamic of immorality that leads to a breakdown of society. As a result, you have this very great disparity between rich and poor; and that destroys the society eventually. I think we only have to look around the world, as well as at our own society, to see that the whole thing is literally true.

What the Bible says is that the sins of the parents are visited on the third and the fourth generations, and I think that means something very down to earth, which is, that you don't see, here and now, that your lack of ethical standards is having evil effects. But it will come out in the third and the fourth generations. I think that is why we see a lot of parents, who are very highly ethical people, are totally amazed at the lawlessness of the younger generation.

But, if you look at what ethical system is being followed, you would realize that it is not something that is worked out or explained at that level. Therefore, the Public Sector, and the Private Sector should be extremely concerned about the ethical climate, which requires legislation - Integrity Legislation - because if there are no ethics, then, the society collapses. In that context, therefore, the law, and laws are important.
But law is a symbol and, without the symbol of the law, then there is a general breakdown of ethical standards. Therefore, laws have a very important place if only to show that there are standards, that even if we don’t practise, that we abide under the law.

A French Philosopher has said that "hypocrisy is the tribute that vice pays to virtue." Often there is no hypocrisy, because people don’t even believe that a thing is wrong. And some people are saying there are no ethics; you just make a profit. So you don’t have to be hypocritical because, you know, virtue is not something that really makes any sense at all.

Recently TIME magazine had an article on "Ethics on International Relations", where the author was saying that ethics is totally irrelevant and its absence not harmful to good international relationships.

So, there is no need to be hypocritical, because virtue is no longer virtue. But, laws remind us that there are such things as "virtues". There is an ethical principle and without that, as I have said, society collapses.

Generally speaking, people in this country are religious people, so what we need to do is to realize that integrity legislation only makes sense if it is founded on faith in God, on certain realities. And, though I grant that this is largely a task for religious leaders, I think that it is a task that in which everybody has to be involved.

---OOO---

Nell Rollingson

There is a point that is often overlooked in addressing this question of corruption. Especially in Third World Countries, we are talking about an additional cost of development through corruption estimated in some places to be fifteen per cent more than the actual cost that should be incurred by the developing country.

This cost you can double, if you take into consideration the poor workmanship, the poor product, the poor service, the inappropriate service; and the chances are that these will have to be written off eventually.
So that, in addition to what Fr. De Verteuil and the other speakers have been talking about in terms of right or wrong decisions and some kind of ethical behaviour, personal integrity, etc., we are also talking about a cost to society in a situation where we can least afford such cost, and where our scarce resources have to be allocated, by whatever mechanism, whether it be market mechanism, or whatever, to all members of the society.

A recent article said about corruption in Third World Countries, that it is very rare indeed, for a country to get a clean verdict. If we accept that this is a fact, and if we accept that we are a Third World country, we really want to look at the question of corruption, above and beyond morality. I am not by any means saying that questions of integrity and values are not important, but we also want to look at the question of cost. It is too costly for us to have corruption in our society.

Now, what are our options, in terms of getting rid of grand corruption? One obvious move is to put in place the relevant legislation. I want to raise a couple of observations about legislation, and one, I think, was raised by Fr. De Verteuil to which I also want to add, maybe some emphasis. I am not a legal person, I don't claim to be a Lawyer - not even a Bush-Lawyer - but, it would seem to me, that for a piece of legislation to be acceptable and to be implemented by society, it must find some basis in the proprieties and morals in the culture of the society. In other words, the society must, collectively, say: "This is wrong, it cannot be condoned; and, if done, it will be met with some kind of punishment". As far as I am concerned, there is no grey area here.

My question is - and I have to say my "provoking" question, because I intend to provoke a little bit - Is this in fact our culture with regard to the question of grand corruption? Is the conversation in our society directed to eradicating all forms of corruption? Or is it along the following lines? - and you will forgive me if I use local lingo here, -

"For a big man not to get rich, he is either weak or stupid". Or, "if I'm going to take a chance, it must be for big money." Somebody told me recently, "No cash passed, so it's all right".

And there are numerous sayings, if you want to call them that, that come out, that emanate from our society, that people say and that people speak, without blinking an eye about it.
This conversation leaves us to ask the question:

"Is there the cultural or the societal support for Integrity legislation? Does our society really want it? And by extension, if we don't want it, are we satisfied with the status quo?"

Now that's a dilemma that we have, and we have to address it in the context of what's going on in the society. You see people being interviewed on the television about the level of criminal activity, and there is outrage, there is outcry; and, obviously, the conversation at the present time is that we have to do something about it. The types of behaviour that are indulged in by our deviants, our young deviants at the present time, the types of behaviour that we would want to sweep under the carpet - are they really different? If we legislate, and there are certain types of behaviour, acceptable on the basis of a culture that is indifferent as to what is appropriate, how effective could such legislation be?

And there is another conflict that we have to face, another dilemma that we have to address. We are a small country, of one million people, with a limited amount of the skills - managerial, technical, etc. - needed for our development. If all the skills needed are not available, then we have to double up. But the skills have to be spread across the line between the Public and the Private Sector, between personal and corporate requirements.

As Spoiler said

"The magistrate has to judge his own case".

How can we, for example, detect insider training, conflict of interest and the rest of the issues in this context? And how can we prevent it? How will integrity legislation, as we are considering it now, how can it be applied to a small country like ours with these kinds of inheritances? I am not saying "do away with the legislation" by any means, I am just raising the issue.

If we are satisfied that the conversation is wrong, the culture is off-key, we have to change it. And, if we have to change it, we have to change it, to my mind, on three levels. We have to change it within the Public Sector, Companies - the potential sellers - and purchasers of goods and services.

I think that the question of ethics, if not religion, is really absent from our Secondary School System. In the Primary School System it is not too early to learn about ethics; and I am not too sure if it is present at all in the tertiary system.
Finally, President Hassanali made a very simple point at the Opening of the symposium, a point which, to my mind, we should address and address again and again. Within the family unit, in whatever form it is - you normally tend to think that the "family unit" is father and mother and children, but it could be grandmother and children, it could be mother and children, it could be father and children - systems of ethical behaviour are reinforced by what we learn, and what we are experiencing outside of the family and in the outside society.

So that really and truly, what I am trying to do is to bring the discussion away from the question of law, away from the question of legislation, the very mundane things. The question of the cost to society might be the question we have to face; and that, to my mind, means that the society itself really has to change its own behaviour.

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Glenroy Baptiste

Integrity alone is synonymous with honesty; and I want to introduce that word in business. There is a general feeling that a lot of businessmen are not honest; and I want to make it clear what honesty implies, for all to know it.

It implies "truthfulness and fairness in dealing, and the absence of fraud, deceit and dissemblance." Now, by definition, we will all hold that the need for integrity in business is not new. Indeed, the Integrity Commission’s memorandum for the Symposium "Whither Integrity Legislation?" has observed that departure from standards of integrity is nothing new, as unfair dealings have been rife among mankind, as long as civilization itself.

As regards Integrity in Business, by "business" I include all businesses, both in the Public and in the Private Sectors; I include any activity that someone is rightfully responsible for, or that is their proper concern.

Integrity in Business has for a long while been controlled by laws, or been guaranteed or attempted to be guaranteed by laws, such as the Sale of Goods Act, for instance; or by Codes of Ethics, as apply in particular professions, such as Doctors, Architects and so on or by regulations and procedures, such as the Civil Service Regulations, etc. An attempt to foster integrity in business has been guaranteed or provided for by certain laws for a long while.
Now, these have all been designed to ensure adherence to acceptable standards and to protect individuals and entities in the society from loss or injury resulting from fraud, negligence and unfair practices. The thrust of our discussions should therefore consider whether existing legislation is adequate and, most importantly, whether in our society, the sanctions of the law are made to apply effectively. Do aggrieved persons have unencumbered access to redress, and are perpetrators or offenders readily punished for the offences? I submit that, after we have examined the issue, if we find Integrity in Business lacking in Trinidad and Tobago, it may not be for want of appropriate legislation or Codes of Ethics but rather for effective mechanisms to deal with infractions of legal and moral standards.

By no means am I saying, however, that I do not feel that our legislative, or regulatory frameworks are adequate or that they do not require strengthening or updating.

Integrity in Business is indispensable to any society in this emerging global economy. The reputation of our country is paramount to the decision of capital investment by foreign entities which is unavoidable and is a vital factor in today's economic development. It is small wonder that the conventional wisdom of the International Financial Institutions is recommending reforms in the administrative and legal framework of client countries who seek assistance for improved economic performance. We have recently had the Maxwell Stamp Report and various Reports from the World Bank. We will always have recommendations for improvements in our administrative framework. I am coming to that issue as being crucial or germane to the whole question of Integrity in Business.

Integrity in Business is fostered in an environment where the rules of the game are clear and unambiguous and where the umpires or the officials are disposed to enforcing those rules equally and fairly to all players.

It is therefore imperative for a society that is desirous of promoting integrity in business to ensure that there exists what is commonly called 'a level playing field', and that opportunities are unencumbered for redress in the case of injury.
The market reforms that are currently being undertaken in Trinidad and Tobago mandate that the Government execute its principal function of providing the appropriate regulatory and administrative environment conducive to efficient business operations. Anything less than optimum may prompt breaches in integrity in business that can have an adverse effect or impact on other moral and ethical standards in the society.

I am not saying this because businesses are necessarily how they now are in Trinidad and Tobago, because things are hard. There are a lot of bureaucratic constraints, etc. But I am saying that we would have lost out in the area of ensuring that we have a fairly efficient environment within which to operate. We would have lost out in the effort to promote integrity standards in Trinidad and Tobago generally, if we did not look at improving the administrative framework within which business operated. This point, I say, cannot be over-emphasized.

Important, too, is the impact that a poor public administration has on integrity in business. If we have a poor Public Service; if we have poor decisions; if we have poor budget decisions, we force people, or we force business, to look at alternatives that might be less than honest. This would have a spiral effect in the society.

There are people who champion the interests of the consumer and always speak about the tendency of businesses to increase their costs. They may well want to look at this factor of an efficient public administration, if they fully understand the way business operates. And the reason for this is that it is, I think, the most single important factor which contributes in no small measure to high increases in business costs.

It must be remembered that businessmen do not march. We simply make price adjustments commensurate with the increased costs. And I am saying here that it is one of the most important items to be considered.

If we turn to the influence of business on the public official, I think that the principal area of influence of business on the public official is the opportunity it unavoidably provides for the personal benefit or interest on behalf of the public official. It is a fact of life which cannot be changed. Business provides that opportunity to the public official.
The primary concern should be to ascertain to what extent are these opportunities easily presented by business to the official; and what safeguards and/or mechanisms are desired to minimise the extent to which these actions can be made offences?

I think that the public official cannot be immune from business; and business does not necessarily impact on the public official, except from the point of view of his own personal integrity; the integrity of the official or the entity that is interacting with the public official; and generally, the moral standards that exist in the particular society.

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Senator Wade Mark

The issue of Integrity in Business and the influence of Business on the Public Official cannot be divorced from the prevailing poor ethical and corrupt standards and practices which currently prevail or exist in our nation. The two are organically linked and therefore cannot be separated. Corruption appears to be widespread in many a private sector organization. This is even more alarming in the absence of any real and meaningful transparency which in turn facilitates fraud, bribery, incompetence and mismanagement.

These developments have occurred in the midst, or in the presence, of a mixed economic model of development in which the State has played a leading role. Yet criminal activities prevail without any arrests, imprisonment or serious fines being imposed. Indeed, Father Gerry Pantin was forced to remark in a recent article:

"If the market has now become the new God to be worshipped and if supply and demand have replaced the ten commandments, then there is no war. We can persuade a young Columbian male that cocaine is evil but cigarettes which kill forty times as many people is an acceptable market product".
Further, in Adam Smith's 'Wealth of Nations', the dishonesty and lack of business integrity is once again reflected in the quote:

"People of the same trade seldom meet together even for merriment and diversion, but the conversation ends in a conspiracy against the public or some contrivance to raise prices."

How can we be serious about switching from the mixed economic model of development to a purely market-driven one without the establishment of critical and fundamental laws to safeguard national integrity and to curb the avaricious appetites of the monopolies and foreign transactions? The Business community, as far as I am aware, has not been able to establish or embrace any form of self-regulatory mechanism, which would outline a set of clearly understood principles and standards of proper conduct for their membership.

There is need for a Code of Business Ethics to govern the activities of the private sector in Trinidad and Tobago. This is absolutely necessary if we are to address the Prime Minister's recent concern when he remarked that:

...criminals come in the most unlikely costumes. There is white collar crime and there may well be 'lords', and many other rich and exalted personages among us who could be less honest than we might suppose."

There is absolutely no doubt that numerous criminal activities that have occurred could not have developed without the willing connivance of certain public officials. In this regard, there is an urgent need for a criminal code for public officials along with a Conflict of Interest Act to govern the activities of Ministers, Members of Parliament, Senators and other public officials, in dealing with integrity in business and the influence of business on public officials.

Proper principles must be established to guide business officials in their day-to-day dealings with public officials. This is not to imply that all public officials and business people are corrupt. I do not wish to be misquoted by the news media on this issue.
There is without doubt a burning need for the publication of a statement of principles focusing on STANDARDS OF ETHICS which would guide businessmen's conduct. Some of the elements should include,

**COMPLIANCE WITH LAWS**

1. **Compliance with Laws**, would incorporate the following:

   - Maintenance of proper accounting standards
   - Product safety
   - Proper advertising - *(even in today's papers, there is war on the issue of editorial integrity between the Guardian and the Express)*
   - Political Activities
   - Observance of Securities Laws (i.e. the Security Exchange or the Stock Exchange. We know a lot of corruption has taken place in the past)
   - Personnel-Related laws - Respecting labour laws and not violating collective agreements and exploiting workers.

2. **CONFLICTS OF INTEREST**

   This, would be related to the avoidance of any relationships, or participation in any transaction, involving a possible conflict or appearance of conflict between the interests of the business concerns and the personal interest of the associates.

   Conflicts of Interest in this category would include things like -

   - Gifts and loans and entertainment;
   - Interest in other Businesses and Organizations;
   - Interest in Competitors;
   - Interest in suppliers;
   - Indirect Interest and Relationships;
   - Use of Company Information;
   - Diversion of Business Opportunity; and the Holding of Public Office.

These are issues which the business community should urgently address and tackle. There are numerous instances of dishonest and absolutely horrendous conduct on the part of sections of the business community which seriously infringe on the rights of the public.
For example, the illegal export of capital through the mechanism of capital flight. Between 1986 and 1991 it was reported to the population by the Minister of Finance that over one billion US Dollars was illegally exported from Trinidad and Tobago. One could well imagine how many billions floated out of our country illegally during the height of the 'oil boom' between '74 and '85. We have estimated that between '83 and '93, about close to ten billion dollars TT left this country. This has deprived our country, and economy, of much needed investment capital and jobs.

There are numerous instances of dishonest and unethical practices, but I would like to say that, whether it concerns public conflict of interest, insider trading, influence peddling, acceptance of benefits for the carrying on of business which is incompatible with one's public office, the fact remains that they all constitute dishonest and improper conduct and currently escape the full sanctions of the law.

This, of course, has serious implications for public integrity and national accountability.

Business integrity requires a sense of fairness and a reasonable rate of return on investments. We ought not to encourage business enterprises, particularly those of a foreign nature, to virtually rape and plunder our existing limited resources.

In an effort to address the issue of "Conflict of Interest" in activities involving both the business interest and public officials, I wish to advance the following:

- Stringent guidelines to be observed by Public Servants in respect of "Conflict of Interest" situations. The Canadian influence may be useful here.

- The establishment of a Criminal Code of Conduct.

- The mapping out of danger zones by the Integrity Commission for Members of Parliament.

- Disclosure of financial and economic interest on an annual basis.

- The establishment of a Special Unit to focus and keep under review, any conflicts of interest that may arise.
Further it is recommended that -

- All laws on bribery and corruption should be revised and urgently updated, and should be applied to both the public and private sector.

- Strict laws should be enacted to deal with the misuse and corrupt disclosure of official information; also, as I have said, the expansion of the network of the Integrity Commission in respect of full disclosure of financial interests involving all Parliamentarians.

- There should also be, finally, a review of the operations of the Integrity Commission by a Joint Committee of Parliament which will report to both Houses of Parliament on any matters with respect to the Commission; the Joint Committee could advance changes that it sees fit to the Commission in view of new trends and changes in corrupt conduct.

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Winston Ganessingh
(Participant From the Floor)

We are living in an information age. What I am not really clear about is what people on the panel will determine as inside information, as against "non-inside" information.

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John Martin

Insider information is information which is not published. It's confidential information which is proprietary; and it cannot be disclosed. If you, on the inside, have that information, you can't peddle it outside. That is what we call "inside information."
I would like to find out from anybody on the panel - Dr. Millette spoke about integrity being based on law, on the proprieties and ethical customs. Can any member of the panel describe the ethical customs in Trinidad and Tobago, and on what they are based? Or, are we just assuming that we have these legal principles which we are supposed to know by Osmosis or through our religious value systems?

When we have various systems working and each has different emphases and standards, how do we gear up, or make all these various things into a whole, so that we can get a consensus from the society?

Does the Panel feel that we in this society, the holistic society, have sufficient consensus on which we can base all these ethical value systems and write them up for business, for the Parliamentarians, for people who have different expectations and different standards of living?

---OOO---

Senator Diana Mahabir-Wyatt

That’s an excellent question on which to base a final few remarks, because I think you have more or less captured in almost one question, the essence of what a lot of our speakers have been talking about. I think that Dr. Aziz did. He started off trying to get close to what you were saying when he was talking about "professional integrity" and "ethics and the development of the human being in terms of human resources." He was talking about unfair advantage and I think that perhaps what you were saying is, how do you decide the terms of our society, and what it is.

Dr. Millette, in his scholarly address mentioned the views of various other people from Lenin, to Friedmann to Karl Sherwin; All of these things are reflected by certain elements in our society. But that is not a consensus in terms of what the entire society feels. I don’t think any of us here really agreed with Dr. Friedmann that there should be no social responsibility in business that your job is just to make money and to make profit.
Fr. De Verteuil spoke of the legislation of morality within an ethical context, and I think he was trying to get to the point you were asking but he spoke about it in terms of the role of religion being the basis of the ethical systems. In other words, any legislation should be based on religious principles; but he went on further in actually answering your question, to talk about the necessity for ethics in society as a whole. So it is a matter of advertising and ethics; hire-purchase and ethics; business and ethics, not just about profitability and efficiency. We are trying to get a little bit nearer towards a consensus on what really is ethical, which is integrity in our society.

I was very interested in Fr. De Verteuil’s statement that, from a Christian point of view, the purpose of ethics is that there should be no poor; because, if we have poor, eventually society will be destroyed. That gave me an awful lot to think of and, in fact, gave a lot of other people as well.

Neil was asking the same question you were asking. He was saying: “Culture in Trinidad is ambivalent to what is appropriate”; and we have to get consensus on that too. Because, legislation, including technical legislation, must arise from a social consensus. That’s what integrity is.

Quite apart from your point, which is an excellent one, I have thought about the “cost” of corruption and development. If we are going to come to a legislation that people are going to obey because they agree with it, you have got to have exactly the sort of consensus that Mrs. Harper is talking about. I think it is the question you were asking as well.

Mr. Baptiste also was talking about this. He tried, at least, to define what honesty was in business - to be truthful, an absence of fraud and deceit and getting away from unfair dealings.

But, once again, as Glenroy pointed out, we do have legislation. What we don’t have is the machinery with which to enforce the Act. You brought up one question you didn’t answer - and that had to do with the international lending agencies telling us that we have to improve our standards. I want to know what about the ethics of the international lending agencies themselves, in terms of how they direct their policies in countries like ours? But I would like to point out also what you brought up: that you can’t isolate the
Public Officials from Business. It depends on our own, on people’s own integrity, a point that Fr. De Verteuil and Dr. Aziz brought up, our own integrity. I think that is what Mrs. Harper has been talking about as well: What does Business regard as being integrity. I think, in fact, that what we have done, is perhaps we have raised more questions than we were able to answer.

Wade Mark, very interestingly - for the first time somebody has brought it up here - he spoke about the need for a “Code of Business Ethics”. That is something which I think that the business community has talked about as long, certainly, as I have been involved in the business community. I’ve never seen it come to fruition. I think it was a very interesting suggestion. But he also spoke about the “Conflict of Interest Act”, and the need for principles to guide business officials in their dealings with public officials and vice versa.

You talked about “compliance”, about business officials who have to comply with laws and deal with such matters as Conflict of Interest, gifts, loans, interest in other business. Wade went on to talk about specific instances that he was very much concerned with, dealing with things like the illegal export of capital. The figure of Ten Billion dollars needed for development having fled the country in ten years is a very threatening one. I would really like to get a little bit more information about the basis of that calculation because it’s scary.

But he did bring up instances of dishonesty and unethical practices that he had been concerned about over a period of time. All of this was perhaps, without answering Mrs. Harper’s question, which is the question that basically this whole session is all about. Senator Mark also did make certain recommendations in relation to things like guidelines for public services and a Criminal Code of Conduct; guidelines for danger zones which a department can get into, expansion of the Integrity Commission Legislation to involve things like full disclosure for all Parliamentarians and Parliamentary Joint Committees - all suggestions which I think are worthy of examination further in another forum.
I think that our society, as has been mentioned, is evolving, we are still evolving, and our value systems have to go on evolving until we find a level where we can settle. Then from there we can organize ourselves properly on the basis of a consensus among all the different religions and cultures and people, in order that we may be able to bring about something that is called "Integrity or Ethical Legislation" to satisfy everybody.

---OOO---

Dr. Emru Millette

I wish to quote a short extract which says as follows:

"As long as a Company does not transgress the rules of state set by law, it has the legal right to shape its strategy without reference to anything but its profits. And if it takes the long term view of its profits, it will preserve amicable relations so far as possible with those with whom it deals - A wise businessman will not seek advantage to the point where he generates dangerous hostility among employees, competitors, customers, Government or the public at large. But decisions in this area are, in the final test, decisions of strategy not of ethics."

---OOO---

Fr. Michel De Verteuil

One of our problems is that we are living on what somebody has called "Moral Capital"; that is to say, you have instinctive responses to ethical issues, but you haven’t gone into the foundation for these responses. But the problem is that, after a couple of generations, those instinctive responses get questioned and get lost, and people want to know why, why is that? Hence the need for the basic ethical discourse that I was talking about.

---OOO---

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Session 5: Neil Rolingson

I hope that we were able, by our various contributions here, really to broaden the discussions. I think the unanswered questions summarise the real problems that we face in introducing Integrity Legislation and enforcing a certain level of ethics.

---OOO---

Glenroy Baptiste

None of us who have participated in this symposium hold our ourselves to be perfect. Indeed, while I ought to stay away from the now politically infamous statement that "all ah we thief" - if I may recall that expression - I think that I would like to evoke the biblical confession, that we all have sinned at some stage.

But the fact that this Symposium has been convened - and I am happy to be part of it - is indicative of the fact that we, as a country, would like to commit ourselves and our future to the kind of environment that would lead to an enhanced moral atmosphere for the betterment of the society.

So I compliment the Commissioners - and, of course, the Government - for convening this Symposium. I appeal to all of us to look at this Symposium as a commitment to the standards of excellence and morality.

---OOO---

Senator Wade Mark

There is an old saying that the longest journey begins with the first step. I think that, in a society like ours, we are trying to escape, as far as is practically possible, from legislating Integrity and Ethics. That is something that must come from within - honesty, decency, distinguishing what is right from wrong. But, in an unruly society, where greed and selfishness reign, the stamp of sanction must be imposed. Therefore we have to move on both fronts - education and penalties.

---OOO---

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SESSION 6

THE ROLE OF THE MEDIA -
ITS INFLUENCE ON INTEGRITY
IN PUBLIC AFFAIRS
SESSION 6

THE MODERATOR AND PANELISTS

Moderator

ANTHONY FRAZER

Television Correspondent well known throughout the Caribbean. Educated at Queen’s Royal College, Trinidad, Responsible for introducing the programme - “The Issues Live” - on Trinidad and Tobago Television (TTT)

---OOO---

Panelists

THERESE MILLS

Editor-in-Chief of the News Day newspaper and former Editor-in-Chief of the Trinidad Publishing Company in Trinidad and Tobago

---OOO---

LOUISE HORNE: Public Service Medal of Merit (Gold)

Served for fifteen years as an Independent Senator in the Parliament of the Republic of Trinidad and Tobago. Served as Chief Nutritionist to the Government. Honoured during the United Nations declared Decade for Women, for making a sterling contribution on behalf of women in Trinidad and Tobago. Currently a voluntary Social Worker and serves as a Lay Reader in her Parish Church.

---OOO---

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Panelists

RAOUl PANTIN

Director, Current Affairs, Caribbean Communication Network (CCN). Has been a practising journalist for thirty one years. Has worked as General, Business and Political reporter and is former Editor of the Trinidad Express Newspaper. Has received many awards for journalism. He is also a practising playwright and poet and is the author of the award-winning screenplay, BIM and six stage plays all of which have been produced on the Trinidad and Tobago stage over the last ten years.

---OOO---

GERRY BROOKS

Attorney at Law. Deputy Chairman of the Trinidad and Tobago Television Company Limited (TTT)

---OOO---

JONES P. MADEIRA

Current Editor-in-Chief of the Trinidad Publishing Company. Formerly attached to the Trinidad and Tobago Television Company Limited. Also served as News Director and Head of News and Current Affairs at the Trinidad Broadcasting Company.

---OOO---

RAFFIQUE SHAH

Current Editor-in-Chief of the Trinidad and Tobago News Centre - the Trinidad and Tobago Mirror and other papers associated with it. Served as Trade Unionist, Politician, Parliamentarian and Soldier in Trinidad and Tobago

---OOO---

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DR HARRY M. COLLYMORE: F.R.C.S.

Orthopaedic Surgeon formerly attached to the General Hospital, San Fernando, Trinidad and Tobago. Founder and Governing Director of the Langmore Health Foundation. Vice Chairman of the National Spiritual Assembly of the Baha'is of Trinidad and Tobago.

---OOO---
Dr. J. O'Neil Lewis, Deputy Chairman of the Integrity Commission expressed the view that the panel as constituted did reflect an assembly of some of the most powerful and influential communicators and shapers of public opinion in the nation, namely the media. In so doing, he also adverted to the important role and responsibility of the media in light of the importance that has been accorded to it through the enshrined provisions in the Constitution which guarantee not only freedom of thought but also freedom of expression and of the Press. He, however, indicated that the guarantee of such freedoms does impose a heavy responsibility when expressions are made public.

In an endeavour to set the direction in which the panel should proceed, Dr. Lewis posed a question by asking how successful have the opinion shapers in the communication media (Press, Radio, Television and publication generally) been in upholding and been demonstrating a professional commitment to Integrity. He thereafter invited the moderator to guide the deliberations of the panel particularly on such issues as -

- The Influence of the Media on Public Policy
- Who Owns the Media
- Is There Conflict of Interest

The discussions began with the question as to "What is meant by Integrity in Public Life" an apt answer to which was found in Senator Louise Horne's presentation made during her contribution in Parliament in 1987 during the debate on the first Integrity Bill as follows-

"People who make laws and control the lives of others must be able to withstand public scrutiny in every sense, whether of their public or private actions. We should demand of our officials that they should be exemplars in every way, possessing, in fact, an even higher sense of morality than those whom they lead".

The following observations and suggestions emerged from the discussions:-

(1) Integrity in public life is not simply concerned with declaring one's assets, but more fundamentally relates to acceptable standards of morality and behaviour as reflected in such matters as speaking the truth and inselecting
and in the best interest of the country rather than being motivated by selfish gains and patronage.

(2) The role of the media is to monitor closely the acts and omissions of government and other officials charged with the responsibility of managing the affairs of the country and ensuring peace and good order and to inform the public of the stewardship of such officials.

In so doing, a high degree of journalistic standards is expected despite the fact that there is a reluctance on the part of Government to make available relevant information to the public in the context of their right to be informed.

(3) In addition, the media have, in the discharge of their responsibilities and consistent with the concept of press freedom, to allay the concerns and fears of many competent persons who are willing to serve in high public offices but who are reluctant to do so because of the media's role in fulfilling their mandate and responsibility of informing and keeping the public informed at the expense of disclosing their private lives.

To fulfill this mandate, the scale is weighted in favour of the rights of the public to be informed, as against the right of the individual for respect for his private life, and rights and freedom of the Press.

It is in the balancing of these rights that the media's role becomes apparent which ought to be explained and disseminated especially for the benefit of all those who may be aspiring for public office and for the public in general.

(4) The most powerful of the influences which mould the attitudes of morals and behaviour of a society is that of the Media, the most persuasive perhaps being the Television. It was felt that the television should be used for the moral improvement of the nation rather than glamourizing crime and presenting, as normal, low standards of behaviour.

(5) It was recognised that man, although prone to do evil, has also the potential to perform noble and self-sacrificing acts and that, while it was not possible to make men moral through legislation, nevertheless such legislation should be designed so as to create a moral climate which would facilitate moral behaviour, with the emphasis being on man's trustworthiness.
(6) The influence of the religious bodies cannot be under-estimated. These bodies are the recognised authorities on moral and spiritual matters. The climate of unity, friendship and shared common principles, which has been fostered among the various religious groups, resulted in the establishment of the Inter-Religious Organization which has created a very amicable climate among such religious groups.

This organization, with its powerful influence on the moral and spiritual lives of the population and its recognition and standing in the nation, can become the unifying force in bringing about those moral changes and attitudes, which are the pillars and foundation of any society that is seeking the answer for the creation and maintenance of a nation of men, women and leaders of integrity.

(7) The media owes itself a responsibility to first establish among its members a code of ethics and integrity. Such behaviour, as false advertising, suppressing information in order to protect certain interests, taking of bribes for favours, constitutes only some of the matters which the media has to address.

It generates a tremendous impact and influence on the lives of all persons in the society and, consequently, care should be exercised as regards who are the persons who should be allowed access to the newspapers and the air waves.

(8) Integrity in Public Life should not be confined only to persons in public life and those performing public functions; but, more importantly, it should also be viewed as extending to the media, the source which today plays a vital role in maintaining, among public officials, behaviour consistent with the norms and ideals of integrity. In order to achieve this role, the media itself must also be an institution comprised of men and women whose watchword is also integrity and fairness.

Ultimately, it is conceivable to conclude that the standard of integrity displayed by persons in public life can be measured in large measure by the extent to which the media in fulfilling its role, does so with fairness and integrity.

(9) The media's role in influencing behaviour consistent with integrity in public life would be dependent upon many facts such as -
(a) the proprietor's perception of the business, his management techniques and his selection of editorial staff

(b) the extent to which there would be conflicts of interest between media personnel and the persons, business enterprises and the public officials, with whom interaction takes place daily.

(10) A useful suggestion offered was the appointment of independent Directors, who are distinguished public figures, representing a fair cross-section of opinion and with power to appoint and dismiss the editor. In any event, sufficient authority should be conferred on the editor as to the choice of other staff who must not only have the required professional qualifications but also the courage and integrity to inform the public responsibly. Also highlighted were:

1. the role of the media in relation to the education and upliftment of the youth of the nation;
2. the obvious harm meted out to the youth by the distribution of films, videos and other devices which depict violent, lewd and debasing scenes;
3. the censorship of information for public consumption by appropriate managers; and
4. the role of parents, as teachers. Examples of honest, chaste and disciplined lives should be a principal focus of the media.

(11) The media in Trinidad and Tobago has come a long way from being a passive and docile institution, as it was especially during the colonial era until the 1970's. Then it began becoming assertive and alert to the needs of the population to be informed and enlightened, especially in matters which hitherto it would not have dared to address because of the culture of intimidation out of which it evolved.

The realisation that the media has a positive role to play and could make an impact on integrity in public affairs and, indeed, on any other aspect of conduct and behaviour in public life, became a reality.

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The media has thus come of age and the public are now more and better informed and enlightened about themselves, and about the public officials who administer the affairs of State. Consequently, the public are better able to make a contribution to the decision making process that affects the lives of all the citizens.

(12) The media, in all its diverse forms (talk shows, game shows, commercials, news etc.) has an important social role, and consequently has a significant influence on integrity in public affairs. Its capacity to influence and shape ideas, opinions and public policy is acknowledged universally, hence the need for truthful, objective and unbiased information, especially as journalists in our society now provide a regular open conduit of information from Government and from public institutions to members of the public.

(13) Enshrined in Section 4 of our Constitution are "the freedom of thought and expression and freedom of the press". Investigative journalism demands that the media should question and probe the actions of those in authority and expose abuses of power, incompetence, corruption and other improprieties. It is the most efficient and effective of ways in ensuring that inefficiency, dishonesty, and lack of integrity are not permitted to corrupt the whole system and cause injustice.

The media has a responsibility to inform the public accurately about matters of national interest, and on topical issues. Journalism can weed out impropriety and breaches of integrity. Sloppy journalism results in half truths, innuendos, and misrepresentation, which only serve to undermine confidence in the media and in public institutions.

(14) The issue of the law concerning libel being actionable in fact was also touched upon. The media needs to exercise both responsibility and restraint - Responsibility to mould and develop informed public opinion through well written, well researched and balanced editorials, reproduction of letters to the editor; through the medium of talk shows, interviews, call-in programmes; and restraint, by the avoidance of using sweeping generalizations, obscene language, certain captions and photos which do little to promote integrity and ethical standards - in general there needs to occur greater self regulation.
In addition, while the law cannot create a moral man, it can help to create a moral atmosphere within which the force of the law serves to act as a check on one's basic instincts. It was also pointed out that conflict of duty and interest is not confined to Government but applies to all citizens, be they involved in whatever field. Perhaps part of the solution may be found in the development of a Code of Ethics to preserve freedom of the Press while simultaneously promoting ethical conduct.

"Insider Information", acceptance of gifts, lobbying to pursue goals of single-interest groups with which one is associated, may also amount to violations of the canons of ethical conduct, and are no less a threat to integrity in public affairs.

Although it is recognised that the media enjoys freedom of the press and expression, nevertheless the exercise of such freedom must be balanced in the context of the rights and freedoms of the public in general and particularly the right of the individual to the enjoyment of his privacy and family life.

What is being advocated here is the development of a Code of Ethics prescribing comprehensive standards of behaviour and a system of treatment of complaints which, while promoting the highest standards of ethical conduct, also preserve the freedom of the press.

In response to the calypsonian's question of "Who will Guard the Guards?", it was advocated that the solution to that question is the media. In so advocating it was noted that the Caribbean Press Council, which is made up of media, at the level of the Caribbean Publishers and Broadcasters Associations concerned about public trust and editorial integrity of regional media, have already developed a Code of Ethics for its membership.

At the present time there is a lack of dynamism, almost a type of hiatus, in having the media make their mark in the promotion of integrity and public trust, and there is the necessity for some indulgence in some introspection and in responding accordingly. Such a response could mean, national media determining for themselves the mechanisms to encourage that introspection as against mechanisms forced upon them externally.
(18) As regards the media determining for themselves what mechanisms can be employed to encourage introspection and thus a code of ethics including the purpose, aims and objectives of such a mechanism and code. The following suggestions arising out of a study sponsored by UNESCO but collated by an Editorial Director and Honorary Vice President of the Guild of British Newspaper Editors were highlighted:

(a) The preservation of the freedom of the media by mass communication resisting attempts to restrict access to information, including legislation which has this effect.

(b) The encouragement of high ethical and professional standards by having a formal Code of Ethics and Case Law.

(c) The promotion of understanding and trust between the media and the public providing for complaints by the public against the media and vice versa.

(d) The intervention between governments and the media and advice to governments on legislation and proposed legislation affecting the proper performance by the media of their duties and obligations to the community.

Concern was, however, raised as regards the rapid proliferation and expansion of the media during the last year and the question was posed as to whether we are ready for this and asked, "Are we training the young people who are entering the profession enough to face up to the challenges that lie ahead?"
Socrates was of the view that in our relations with one another, 'integrity' was better than 'charity'. He appears to have regarded integrity as the quality of total commitment to a code of ethical behaviour, that allowed for no departure from what was morally right and correct, regardless of the circumstances under which that behaviour was being exercised.

'Integrity, as he saw it, involved a wholeness of right conduct whether or not that conduct was being observed by others.

Nowadays, we speak of transparency of conduct - no hidden agenda no undisclosed interest, no cards under the table, no undetectable bending of the law, or of the accepted code of professional, political, financial, official, public and social behaviour and, even academic and sporting behaviour. We learned at Q.R.C. that from the Romans, we got two Latin words from which we derived the English word 'Sincerity': *Sine* meaning 'without' and *cera* meaning 'wax'. It appears that in Roman times money-changers had metal receptacles in which moneys were kept for the purposes of exchange and it was not unknown that some crafty changers often attached some bee’s wax at the bottom of their receptacles so that some of the money brought to be changed remained stuck to the bottom and out of sight. A "sincere" money-changer was therefore one whose receptacles had no wax at the bottom. *Sine cera*.

Alas, as Socrates himself was later to discover at the price of his life, men are not angels, nor are they governed by angels. So, laws have often to be introduced in order to strengthen the resolve of the waverers and of those who from time to time allow themselves to be persuaded that their material self-interest would be better served by putting their integrity aside for the time being.

One sees evidence of that daily on the roads, where every possible aspect of right conduct is set aside, and even the traffic laws are ignored with brazen impunity.

I said in an earlier panel discussion, that I had got to learn that it is now "two on the red", that is two vehicles should be allowed to go through, when the traffic lights turn to red.
and when it's amber, three should be allowed to go through. If you obey the law and stop when it turns to red, somebody behind you may tell you where to get off.

But, integrity is not merely about obeying the laws of the land. It is a quality of life that applies to all activities, not only to adults. It is not too soon to try to develop that quality in young children. There is no time-frame for inculcating that principle set out in the Preamble to our Constitution that:

"Men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law."

It would be well worth having had the Integrity Symposium even if it did nothing more than strengthen the public's awareness of the importance of integrity in the life of every individual in the Nation. And in that regard the media have a major role to play - a role, that is, in the strengthening of public awareness about integrity.

Our Constitution - our own Constitution - so strongly reflects the importance of the communication process, that it enshrines freedom, not only of thought, but more importantly, freedom of expression and freedom of the press. We are all free to think, but freedom of expression carries with it a heavy responsibility when that expression is made public.

For this final panel discussion, we have, assembled here, some of the most powerful communicators and shapers of public opinion in this Nation. Not only their names, but also their faces are known to every person throughout Trinidad and Tobago, and their voices are heard and recognized throughout the Caribbean, and even beyond. So it seemed fitting to the Integrity Commission that this three day Symposium should conclude with a session featuring some of the opinion-shapers. It is in a real sense an inverted 'news conference' with the media, in particular, doing the answering.

I think it was Thomas Jefferson, the third President of the United States who said:

"Were it left to me to decide whether we should have a Government without newspapers, or newspapers without a Government I should not hesitate a moment to prefer the latter."

Dr Williams, the late Dr. Williams, in one of his many cryptic remarks, once described the television set as an 'idiot box'.

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When that description raised protest, he explained that the Greek word 'idiotes' meant 'a private person, an ordinary person, one who held no public office or had no professional knowledge.' The TV was therefore an important instrument for providing knowledge to ordinary persons. The important question, therefore, was: What knowledge would the TV provide for ordinary persons? Perhaps equally important: How successful have the opinion-shapers in the communication media - Press, Radio, Television and Publication, generally - been in upholding and demonstrating a professional commitment to integrity?

---OOO---

Anthony Fraser

'The influence of the Media on Public Policy' is something that has been argued in the literature concerning the media for a number of years, and it is still not a settled matter. I will be very interested to hear what my colleagues have to say on that matter.

The second one has to do with 'Who Owns the Media'? 'Is there a Conflict of Interest?' - another very engaging subject. If I had my way, I would add to that, after the 'interest' some semi-colons, or a semi-colon asking "How Can Media Keep Their Integrity, given the commercial and political consideration that we all have to face on a daily basis?" I hope somebody here adds that to that second question that they have to address.

---OOO---

Therese Mills

One of the most important things for the media, of course, is to define any subject that comes under its consideration. So I would like to begin by asking a question "What is meant by Integrity in Public Life?" Are we merely talking about a form of legislation or rules covering the financial affairs of the elected or appointed public officials? Or, are we of the view that integrity relates only to money matters?

In 1987, I think it was, when the first Integrity Bill was before Parliament, Independent Senator Louise Horne, who is one of our panelists here today, gave the following definition, with which I agree:
Session 6: Therese Mills

"People who make laws and control the lives of others must be able to withstand public scrutiny in every sense, whether of their public or private actions. We should demand of our officials that they should be exemplars in every way, possessing, in fact, an even higher sense of morality than those whom they lead".

Integrity, then - if we accept her definition - is not just about 'kick-backs', the taking of bribes, or establishing million dollars accounts in foreign banks. It is about speaking the truth. It is about not overselling tickets at a World Cup Football Match and then trying to fool the public that you didn’t put forty-eight thousand people into twenty-eight thousand seats. It is about transparency in the award of public contracts. It is about the ethics of taking responsibility when thirteen mentally ill patients die as a result of negligence in a public hospital.

Integrity is not just declaring one’s assets. It is not using undue political influence to have a Service Commission remove a public servant, simply because the Minister does not like his head.

Integrity is about acceptable behaviour that does not tolerate, for example, drunkenness, marital infidelity. And the role of the media is to keep all these issues before the public. Public scrutiny stops short, I would say, only of employing long range camera lenses that go into people’s bedrooms.

From the above it can, therefore, be seen that the media has a tremendous role in ensuring standards of integrity and, indeed, in influencing the widespread acceptance of these standards. The media has a role in exposing breaches of these standards, wherever they occur or by whoever commits it.

We have to remember that governments do not like public scrutiny at all, even though they mouth the platitudes. In every dictatorship, from Stalin to Sadaam, the media is the first to be made unsafe, if not totally silenced. And there is very good reason for this, where governments are concerned. Even in democracies, such as ours, governments have been known to fight back to restrict media activities that appear to be delving too deeply, too uncomfortably deeply.

On our doorstep in Jamaica, for example, Journalists have had to protest a proposed Securities Law that would require registration of Reporters covering the financial gate. The intention was clearly to curb the range of their writings.
The regulations would have put severe restrictions on the Reporters' ability to scrutinise financial dealings and to delve too deeply into things that might have turned out to be embarrassing both to Government and to the private officials involved; and Editors would have been compelled to reveal the names of Reporters who had written any investigative reports about which the Government disagreed.

It is the role of the media to keep the closest watch on what the Government and other officials are doing, and to inform the public about these matters; to call for explanations where grey areas exist. This is not a privilege, it is a right guaranteed in our Constitution.

We are well aware that the media can be guilty of abuse, and certainly the media needs to be responsible in reporting. For example, the Government, or an official, whose alleged actions are being exposed, must be given permission to state his/its case. But, most importantly, for the media to play its role in maintaining integrity in public life, the media must be free to tell the whole story. This is its major function and it can only do that if it is not restricted, in any form or fashion.

The media must not, however, engage in a journalistic orgy of self importance as the media in Australia was recently, and correctly, accused of doing. We need to guard against the lowering of our own standards, and ensure against what has happened in other countries.

In a recent poll on ethics and honesty among professionals in Australia, Journalists scored a mere seven per cent and I repeat - this was a poll on ethics and honesty - Journalists scored a mere seven per cent behind the Politicians that they are criticising, and only just above used car salesmen.

The media cannot see itself as the unofficial opposition and community conscience. For democracy to work, the media must be unfettered, subject only to the same system of democratic legal controls that apply to all citizens.

In 1993, as we consider the issue of integrity, the media in Trinidad and Tobago operates under severe constraints in its efforts to fully fulfill its role. There is too much secrecy in government affairs. Officials wish to disclose only that which is comfortable to them.
So clearly, if any plans are being made for any amendments in the regulations, in the laws, information must be made available. Governments have to be compelled to make this information available as a matter of right to the public. And this happens via the media. The media has no greater role or no greater right than the public, but the media serves as a mouth-piece so that the public gets the information.

For example, when a Government signs a contract with a local or even a foreign firm, is it a private field? Or is the public entitled to know the details? Information is the primary engine of social change and cannot solely be entrusted to Government.

It is not by accident that one of the hottest topics in the new democracies of Latin America these days, is defining the role of the media. It is not by accident either that there is today a growing body of legislation in Latin America and we have all that in Latin America - aimed at keeping the media under control. Because, Governments are not foolish, otherwise they would not win elections, they know that a vibrant, strong media is the surest guarantee of keeping them in their place and ensuring public integrity.

The latest example of attempts to deal with the press is taking shape in England, where, after the surplus of revelations that exposed the most unbecoming behaviour on the part of certain members of the Royal Family and the years of scandals that unseated a Cabinet Minister, the Government there has proposed new laws, enforced by heavy fines, to restrain the media. There was more than a touch of irony in the fact, however, that the very Cabinet Minister who initiated the enquiry leading to recommendations against the media had to resign when the media photographed him sneaking out of the flat of his mistress. As one Editor put it, if these new recommendations become a law in Britain, many a member of Parliament will sleep soundly in someone else's bed.

Finally, one way in which the media can help is in helping the public to understand what is meant by integrity in a country where the 'smart man' and the "con man" often emerge as the heroes.
An example of this thinking occurred in the Tesoro /O'Halloran Corruption Affair. After nine years of cover up and denial by the Government, the whole sordid, seedy story came to light in Court revealing the corruption of high officials in whom this country had placed its trust.

Getting at the truth cost this country quite a sum of money in legal and other fees, more than the compensation that was eventually paid into the Trinidad and Tobago Treasury. Amazingly, however - and remember that this was a matter of integrity - the official who pursued the case was wrongly laughed at, as though the only issue here was money.

Completely lost sight of, was the fact that for once the country was making a statement, albeit an expensive one, that it would not tolerate corruption from its high officials. That the taking of bribes, wheeling - dealing are wrong, very wrong and the real losers in the long run are the people. The media has to fight against the concept that too much public scrutiny would keep a lot of good people out of public life. This is an absurd proposition. Where a person offers himself for public service, the public has a right to know everything about him or her. The whole story. The media's role is then to insist on this and to expose wrong doing at every turn.

---OOO---

Dr. Harry Collymore

On behalf of the National Spiritual Assembly of the Baha'i's of Trinidad and Tobago, I wish to express our gratitude for the opportunity of expressing some views on the question of Integrity Legislation. I am not going to deal with any of the matters in detail, for I have considered our role to be concerned with questions of a broad principle which would underline any legislation designed to have a favourable effect on morality in public life and to present the Baha'i's point of view in this matter.

I quote here according to Baha'u'llah:

"The goodliest vesture in the sight of God in this day is trustworthiness. All bounty and honour shall be the portion of the love that arrayeth itself with this greatest of adornments."
His son, Abdu'l-Baha, states:

"Those persons who are selected to serve the public or are appointed to administrative positions, should perform their duties in a spirit of true servitude and ready compliance. That is to say, they should be distinguished by their godly disposition and virtuous character, content themselves with their allotted remuneration, and act with trustworthiness in all their doings."

Of course, these are the qualities that we all expect from people in public life so there is no need for me to dwell further upon them; but the fact that an Integrity Commission exists is because, as we all know, this high ideal is not always adhered to.

We agree that while it is not possible to make men moral through legislation, yet we should strive through legislation to create a moral climate which would facilitate moral behaviour. Man, being made in the image and likeness of God, has, in addition to his proneness to do evil, the potential to perform noble and self-sacrificing acts. The stimulus to tapping the resources of this higher nature is to be found in the teachings and the spiritual power of the great religions, summed up so simply and beautifully by Jesus as love of God and love of fellowman.

Theological differences do not matter as long as these central elements are present. Our conception of God may be vague, but if we can see an expression of Him in our fellowman, this will be sufficient for our present purposes. Loving our neighbour as ourselves would make us refrain from doing anything which would harm the interest of our neighbour, for he is another expression of yourself. This leads us to the concept, stressed by the Baha'i Faith, of the unity of mankind. Mankind is one: we are inexorably bound up in each other. The interest of one is the interest of all. If this concept can become enshrined in our national consciousness, it would influence the activities of all agencies that mould the character of our people and make for a more moral people, thus lightening the task of the Integrity Commission.

Let us start with the religious bodies which are the recognized authorities on moral and spiritual matters. We in this country are more fortunate than most, in that we have an Inter-Religious Organization which promotes the Brotherhood of Man and the Fatherhood of God, an organization which is said to be unique in the world. Because of influence of this body, the relationships between the various religions are more amicable than in most other parts of the world. But barriers do exist, a fact which weakens the impact of religions as a whole on the unregenerate in our society.
I believe it is of the utmost importance that the various religious bodies put aside their doctrinal differences as matters of secondary importance in these times of crisis, and concentrate upon what they hold in common, so as to make recommendations which, because they would come from a wider, stronger power base, would be more likely to be accepted and implemented.

One of the most powerful of the influences which mould the attitudes, morals and behaviour of a society is that of the media. Perhaps the most persuasive among the media is television, for reasons which require no elaboration. The potential of this medium of mass communication for education and raising the consciousness of a population is immense, but many of us are more impressed by its effect in glamorizing crime and presenting as normal a low standard of moral behaviour. This is an area in which the united forces of the various religious bodies may be able to do what individual protestations have failed to do over the years. Use the potential of television for the moral improvement of the nation!

Other effects would flow from a spirit of union among the religions. Emphasis could then be placed on those principles which we share in common, particularly the unity of mankind. All religions recognize that all men come from the same Heavenly Father. For Baha'is, this is the axis around which the Faith revolves. Consider the likely effect of all the religions emphasizing the unity of mankind as a principle around which our natural life should revolve.

Suppose the Inter-Religious Organization was able to persuade the government that it was in the national interest to pass laws that prohibit any form of activity which contravened the principle of the unity of mankind, what results would we be likely to see? Examination of some of the television programmes, which serve up for us, and especially for the impressionable minds of our young children, a diet of illicit sex, violence and various forms of immoral behaviour as the norm, would lead to the conclusion that such programmes lower the moral standards of the people and may lead to criminal behaviour. The unity of mankind implies that we are our brothers' keepers.

Such action would, of course, result in an outcry about interfering with the right of the individual to see what programmes he likes. But those responsible for the welfare of a nation have the right and the duty to impose restraints on the population for the maintenance of public order and morals. Without such restraints, the result is anarchy and we could see the results all around us.
Consider what Baha'u'llah has to say on the subject of Liberty:-

"Know ye that the embodiment of liberty and its symbol is the animal. That which beseemeth man is submission unto such restraints as will protect him from his own ignorance, and guard him against the harm of the mischief maker. Liberty causeth man to overstep the bonds of propriety, and to infringe on the dignity of his station. It debases him to the level of extreme depravity and wickedness. Regard men as a flock of sheep that need a shepherd for their protection.

The liberty that profiteth you is to be found nowhere else except in complete servitude to God, the Eternal truth. Whoso hath tasted of its sweetness will refuse to barter it for all the dominion of earth and heaven."

Mankind, especially those of us in the West, regard freedom as our most precious right, and the comparison with sheep is not very flattering to our ego. Yet when, for example, we observe what some of the newly liberated republics of the defunct U.S.S.R. have done with their freedom, as necessary as we think that liberation to have been, it is evident that Baha'u'llah spoke truly. Man tends to use his liberty for destructive purposes, if he is deprived of moral guidance. So while it is obvious that one cannot make man moral merely by legislation, one can at best provide an environment which does not predispose to immoral behaviour but encourages men to behave morally.

Our call, then, is for the Inter-Religious Organization to be empowered, through the coming together of all the religions in closer, active association, to effect change through legislation on the moral climate of the nation, so as to facilitate more moral behaviour in the community as a whole and on those in public office in particular. Real moral change which can only come through the power of God working in society - in its institutions - will be tremendous. I conclude with a quotation from Baha'u'llah's writings on trustworthiness:

"Verily it is the door of security for all that dwell on earth and a token of glory on the part of the All-Merciful. He who partaketh thereof hath indeed partaken of the treasures of wealth and prosperity. Trustworthiness is the greatest portal leading to tranquillity and security of the people. In truth the stability of every affair hath depended on and doth depend upon it. All the domains of power, of grandeur and of wealth are illumined by its light."
I have been reading and viewing on television some of the statements made so far in the Symposium and Dr. Collymore came down to one of them that had been made consistently by a number of people - that individual character is, perhaps, more important than any legislation that we can carry through Parliament. I am glad he made that statement about the values of human spirit, and so on. The strong point that, I think, he made was that Religious Bodies should put aside for a moment their differences and come together to inculcate that character that is needed and, of course, the Media should be used as a kind of medium to carry the message.

---OOO---

Rafique Shah

I should like, first of all to address ourselves, the Media, on the question of integrity. I feel that the Media must first establish integrity among members of what is commonly termed, the Fourth Estate. We cannot assume the moral high-ground and point accusing fingers at Politicians, Public Servants, Business People or others, if we ourselves are guilty of irregular practices.

I point first of all, not because it is a pro-Quoran topic as it were, to the falsification of circulation figures to win advertising dollars. There is a general tendency on the part of the Media - and I am not saying that my Media House is not guilty of any of these things I am outlining here, nor am I saying any of my Colleagues here is guilty of it as well - what I am saying is that these are the sins that we in the Media commit and, until and unless we can cleanse ourselves of these sins, then we cannot point fingers at other people and other sectors of the society.

We also have the question of "self-censorship", through political or business connection. It is well-known that Media Houses, both locally and internationally, impose a censor on themselves in relation to certain types of news items in order to protect certain interests with which they have connections. That, to me, is a lack of integrity, given the mandate, given what is expected of the Media.
Consider, for example, the acceptance of bribes, in whatever form. We accuse other people of accepting bribes, we accuse ministers, we accuse Public Servants, we accuse private individuals of being corrupt. But what when we, ourselves, settle for a plane ticket to some place, or a lunch elsewhere, in return for favours? Not simply accepting a ticket. There is nothing wrong with attending a Conference, wherever, or having lunch with someone. However, when it is done in order to cover up, or to do some favour to certain individuals or organization, that to me, is a lack of integrity and we need to address that as well.

Certain people make themselves immune from adverse publicity through that avenue.

Some of us, as well, openly take political sides while pretending to be independent. I think we need to be very wary of that. Understanding the impact of the Media - and this is across the board, whether it’s the Audio-Visual Media or the Print Media - that we have tremendous influence and impact out there on the lives of ordinary citizens, we must be very careful about maintaining a certain amount of objectivity and independence.

I will be the first to admit that it is extremely difficult, as a journalist, to adopt an independent position when one has within oneself a given political position. I have political views and I do not pretend to be objective when I write on certain things. I feel, however, that newspapers, and media houses as a whole, must try to maintain that objectivity which the individual writer may afford not to.

Also, when we allow persons with dubious agendas access to our pages, or our air waves, we are also putting ourselves on the line in relation to integrity. I feel that if we have cleansed ourselves of these sins - and I repeat, I am not exonerating myself or my organization from it - but having cleansed ourselves, we can then turn and have the moral authority to insist on integrity in public affairs among public officials and, I should add, among the citizens in general, including those involved in the private sector.

I am impressed with the efforts made by the Integrity Commission. I read the memorandum that accompanied the documents sent to me, and I am impressed with the efforts that we have made on the question of broadening the scope of the Commission, on seeking to have the Commission empowered to take certain kinds of actions in specific cases.
The integrity Commission, if it has the power, can stem the illegal flow of vital dollars from the system, from the economy. Let me just quote some random figures, here, of our gross domestic product at market prices:

- In 1992, approximately $23 billion
- 1991, $22 billion
- 1990, $21 billion.

That is the gross domestic product, according to the statistics revealed by the authorities. If we were to assume that ten per cent of our GDP was being siphoned, or is being siphoned out of the system through illicit, dubious means, then we are talking in terms of approximately two billion dollars a year. If we assume five per cent, it is one billion dollars. Even if we assume it is one per cent, we are talking about two hundred million dollars at current market prices. Incidentally, this was before the "flotation cum devaluation".

So that, there is a tremendous potential, if not a reality, of massive corruption that is taking place out there, and the Integrity Commission, in my view, does not have the teeth to deal with the siphoning of these large sums of money out of the system. But, we must never assume that Integrity in Public Affairs affects only public officials. For, behind every act of corruption by a public official, there is, invariably, a private business or organization or individual involved. Always. It cannot happen one-way, where you have a Government Minister or a Public Servant or a consultant involved, and there is not an individual, a private sector organization, or somebody like that, correspondingly involved.

Let me explain. I am also, Tony Frazer omitted to explain, President of the Cane Farmers' Union. There is massive corruption that has been going on for years, decades, among some cane farmers. It involves cane weighers who purchase the canes from the cane farmers. What they do is, they siphon off small amounts of cane every time a farmer brings his load onto the scale to be weighed. At the end of the day, it may amount to five or six tons and then they award that to themselves. But they have no cane contracts and the only way they can do that is if they act in concert or in collaboration with a cane-farmer or cane-farmers.
Whenever corruption takes place - and that has been one of the smaller aspects of corruption in the industry - you have a private farmer involved. Likewise, in corruption at the national level, if a public official is involved, you can bet your bottom dollar, or a billion dollars, that a private individual or organization is also involved.

I have noted that, in spite of all of this and in spite of, in my view, all that the Integrity Commission and the allied organizations, that I shall point to in a moment, can address, the annual allocation for the Integrity Commission for the year 1993 was $658,000.

Now, here is a Commission, one of several organizations - the others I have listed here as “preventive, investigative bodies” including the Police, Judiciary, Public Accounts Committee, Public Accounts (Enterprises) Committee, (I think that is a Committee of Parliament) - none of them, in my view, has teeth. These days, not even the Police seem to have teeth. So that none of these bodies have any teeth. Here we have the Integrity Commission, which is allocated the grand and princely sum of $658,000 to conduct its job for the year.

I argue that it is necessary to enhance the powers, the features, the facilities of the Integrity Commission, in the same way that we argue that the Police Service needs more vehicles, the Police Service needs more adequate accommodation, more staff, or we argue for the military or whatever. I believe that we should argue, as well, not just for the teeth in legislation, but for the wherewithal, and moreso the allocation of funds, for the Integrity Commission to be able to conduct its business.

I disagree with someone who said a couple of days ago that, in the midst of poverty and crime and all of that, to address the question of integrity is a waste of time. I believe that what is happening on the streets today in this country is a consequence of this society not addressing the question of integrity, from the highest level to begin with. If we had addressed that many, many years ago, today, maybe, we would not have been in the situation we are in.

In this context, and in the absence of teeth given to the Commission, the media must play a most important role in investigating irregularities, exposing the culprits. The media have, in the past, in my view, done a better job in this regard than many of the State institutions, and at great risk.
We need to re-examine the laws that govern libel and free up the media. Here, I am not arguing for the media to have open house to cuss everyone and write everybody’s bedroom affairs. I am not arguing for that. I simply say - and, this has been raised before I raise it here today, it has been raised at the level of CAMWORK - on the question of the laws of libel in the Caribbean that these laws are very restrictive. People often point fingers at the media and say that one needs to be more strict and put in jail more journalists but, little do they know the kinds of information, that reach the desks of editors and journalists, which we cannot print, publish or put on the air waves, simply because we do not have the concrete documents. If we take the risks, even though we know we are correct, we can end up in jail. I think it is high time that such laws be re-examined and updated to give us that access, not only to public information, but to greater parameters within which we can operate.

As a journalist, I should not want to see the day when ultimate efficiency among these institutions, the State Institutions responsible for public integrity, negate our investigative work, thus making us redundant; but, as a private citizen, I would not mind having a corruption-free society, moreso if that comes about because of the joint efforts of Institutions like the Integrity Commission, and the Media.

---OOO---

Louise Horne

The existence of a sophisticated and relatively independent press, dealing responsibly with the matter of Integrity, in its broadest sense, is largely dependent upon the Proprietor’s perception of the business, his management technique and his selection of editorial staff. The perception of the business involves the proprietor’s editorial policy, his intellectual and moral suasion and his commitment to them; the readers he wishes to attract in his targeted area; whether, he wants a serious paper or a popular one; whether he intends to give the public what they want or what he thinks they ought to have; whether the paper is to be without bias or political influence. Of course, it is known that the political allegiance, sometimes of the owners, sometimes of the editors, may be bought or rewarded. There can be "cheque book" journalism, involving selective reporting, gross invasion of privacy, etc.
Secondly, the system of management is crucial whether the ownership, as well as the managerial and editorial functions, would be held by the same family whether there will be a Board of Management which is given the power to review and require editorial changes, down to the complete redesign of pages. Such a policy would undermine the authority of the editor who will then be unable to develop the self confidence to give the paper a distinctive, consistent, independent and honest editorial viewpoint.

When a paper is owned by a commercial company, especially one which may have other activities besides newspaper publishing, conflicts of interest may arise, and the editorial staff would need to be protected against improper pressures. It sometimes happens that a transfer of ownership of almost any paper can be contrary to public interest. The question as to who, in the public interest, would have final control over newspapers - that's a big question. One method found to be useful, is the appointment of independent Directors who are distinguished public figures representing a fair cross-section of opinion with power to appoint or dismise the editor, and settle disputes between himself and the shareholders. They would hardly be susceptible to improper influence in what they would regard as a public responsibility.

As to the choice of staff, the editor must have sufficient authority to ensure commercial survival and the development of an editorial character sufficiently distinct from its competitors. But that does not mean entitlement to write his or her personal opinion without responsibility to anyone, and, perhaps, least of all to the proprietor who pays, and sometimes subsidises loss-making publications. The dilemma is often avoided by the way proprietors ensure that they employ only editors who share their general view.

The choice of staff to take care of various aspects of journalism also involves integrity. Informing readers with special reference to economic conditions and events, comments on policies - fiscal, monetary, commercial - all these enhance the circulation. A vigorous and unbiased financial press to advise investors could do an important service.

Staff must not only have the professional qualifications, but also the courage and integrity to inform the public responsibly. There may be times when the managing authority decides to suppress the news relating to certain issues because the people involved may be too important to offend.
There's the question of public interest versus private right and integrity. Invading the privacy of prominent people raises the question of public interest.

Insisting on the public right to know everything can, paradoxically, damage the public interest. For example, in the American presidential Election, over concentration on the private and financial lives of the candidates almost crowded out serious discussions on political issues. In this country, there is a tendency to adopt much of what obtains in the United States. It is passing strange that, during General Elections, the local press does not draw public attention, to any appreciably degree, to the private and financial life of the candidate.

The public in the United States and the United Kingdom demand higher moral standards from political aspirants and those holding office than they are prepared to tolerate in the family next door. For there is still a healthy instinct that politicians should regard office as a "privilege" as well as an "obligation". However strongly it can be argued that the politician's private life should be nobody's business but his own, provided it does not affect the performance of his or her office, surely these are not qualities one hopes to find in our politicians, who ought to realize that our young people may look upon them as role models. Their private life must not equate with public scandals.

The press ought to be concerned with integrity, not merely an aspect of integrity. In recent times, the leading quality newspapers in the United Kingdom did not hesitate to state their candid views, through editorials and their political reporters, with respect to the misdemeanours and marital problems of the Royal Family. But they strongly criticized the political reporters from certain tabloids for their lack of integrity, because of the unscrupulous methods they used to gain information concerning the private and intimate life of the "Royals" in order to increase the circulation of their newspapers. As a consequence, huge fines on newspapers that breach a tough new Statutory Code of Conduct have been recommended by a Government-ordered Enquiry into the press.

That is in the House of Commons. The Prime Minister favours higher controls but is anxious not to jeopardize press freedom. The Report has been described as "most draconian" on the press, "most draconian" ever seen in Britain; and the Cabinet is split over how to act.
The Sunday Times rejects the proposals, reasoning, that however limited the intention to curb "tabloid excesses", the rich and powerful will always use the new controls, on the press to hinder legitimate investigations and exposures.

The power of the press is such that it can credit or discredit individuals, organizations, corporate bodies, governments etc.

It is for this reason that the reigning British Monarch described 1992 as a year of "horrendous experiences", because certain Journalists were guilty of physical trespass, the use of electronic eaves-dropping and the taking of long-range photographs of her family.

On such occasions, she may have been reminded herself of "The Tragedy of Othello" in which Shakespeare's character, Iago remarked:

"Good name in man or woman, dear my Lord, is the immediate jewel of their souls; who steals my purse steals trash 'tis something, nothing, 'Twas mine, 'tis his, and has been slave to thousands
But he who filches from me my good name,
Robbs me of that which not enriches him,
And makes me poor indeed."

The press can also educate, as well as influence, the life style of individuals, the community. Earlier in this century, students were encouraged to read newspapers, not merely for information, but also for the simple and eloquent use of language, the technique of writing an article or a short play. At the present time, there is need for more contributions with a higher standard of eloquence. The local Media Association ought to become more vigorous, prestigious, and financially viable to support members who may be unfairly treated in their efforts to perform their duty with integrity. There ought to be provisions in their constitution to deal with complaints from the public against the media.

Among the recommendations listed in the draft Report of the National Task Force on Education, is that Music, Dance, Drama, Art and Craft and Physical Education should be given greater prominence in the curriculum of all primary schools.

The Media Association of Trinidad and Tobago should join with the Drama Teachers in our schools, and organise a Youth Theatre for Children in the seven to eleven year age group, from which can come young Playwright Festivals.
Familiar Fairy Tales could form the basis of plays. There ought to be sponsorship of Awards for the best original stories which can be used as play scripts, interweaving themes of loyalty, friendship and honesty of performance, through the Youth Theatre.

Drama would assist our youths in identifying with certain issues an understanding of humanity, new perspectives and new insights into truths an appreciation of art and our cultural heritage in its widest sense.

It would be one of the most effective and enjoyable ways of changing pupils' attitudes, and increasing their knowledge.

It would really suppress the vicious circle of crime which they are now pursuing. Not only the newspapers we must think of, we have to think of other forms of media.

And today, Hollywood, which is accustomed to making fantastic financial gains out of violence, is experiencing a bout of soul-searching.

Sir Anthony Hopkins, who won an Oscar for his portrayal of the Serial killer in "The Silence of the Lambs," told journalists he had been alarmed by the success of the horrific film, and that it might be time to say, enough is enough. He was disturbed by the enthusiastic reaction of twelve-year olds.

Quite a number of different stars are now expressing concern and responsibility. In a debate on the problem, the British Prime Minister warned that there was too much violence in video and television, and those who make and distribute films and videos, must think whether a relentless diet of violence won't have a serious effect on the young. This viewpoint should be reiterated in our country; and caring citizens ought to boycott that sort of entertainment which impinges adversely on the mind.

Management of our radio stations - some of those people - seem to think that since calypso is our art form, any contributions can be put on our airwaves, be they crude, vulgar, or insulting to women. The use of such material amounts to a lack of integrity, however, the response to such contributions by many women demonstrates their absence of self-worth.
Many of our young parents themselves are not disciplined, and consider the biblical code for living as outmoded. Therefore, they do not teach their children honesty and discipline. Many young children are not taught chastity, but, rather, the use of condoms. The school and churches are handicapped. Integrity is in danger. But the press can do a lot to take care of integrity, starting from the family.

---OOO---

Raoul Pantin

When I first entered the field of journalism over three decades ago, the idea that the media could have an impact on integrity in public affairs or indeed on any other aspect of public conduct was purely abstract. The press at the time had the traditions of the press of the more developed countries but the reality was entirely different.

I heard one of the panelists talk about the importance of culture in matters like integrity. Well, I think the political culture of the early 1960's was anything but susceptible to influence from the media; and there's a certain amount of history to this.

Everybody would appreciate the fact that the changeover from colonial rule to independence meant aggressive, antagonistic politics. By definition, nationalistic politics had to have that cutting edge to it. It was the same all over the Third world where new national parties were coming to power for the first time and there was much never-see-come-see about this new dispensation.

Sections of the traditional press didn't welcome the new nationalist movement. In fact, the press adopted an equally antagonistic attitude. I haven't been able to verify this, - its a rumour and, perhaps, Mrs. Mills could verify it for us - but it is said that on this same day in September 1956, when the People's National Movement was running for office, a daily newspaper openly compared Dr. Williams with Adolf Hitler.

The antagonism had manifested itself in other ways. When the new Premier decided to get married in secret, the press almost gleefully broke the story - albeit on the very valid grounds that the marriage of the country's Chief Politician was indeed valid public information.
But this tradition of an antagonistic press, quite the norm in the developed world, wasn’t easily digested by the new government.

In fact it wasn’t digested at all. I wonder how many people recall the first press conference held by Dr. Williams in the halcyon days of the late 1950’s. If anything, those press conferences were merely an excuse to berate the press in general and individual reporters in particular.

Those press conferences didn’t last long. What was then created was a culture of political aloofness, in which the press was the least of the apostles. Many years later, in the post-1970 period, I remember talking to Dr. Williams about those early press conferences and his blunt reply was that the journalists who attended those press conferences didn’t have a clue about what running a modern state involves.

There must have been a certain validity to that. The press was no better prepared than the rest of the society for the realities and responsibilities of independence. But it might also have been the ideal excuse to avoid the glare of the press. You might also recall that, subsequent to those initial encounters with the press, the new Premier thereafter shunned the local press, and his occasional interviews, when given, were either with foreign journalists or the party newspaper.

The tone, of indifference and aloofness, set the stage for the entire government. Very few Cabinet Ministers dared talk to reporters, for fear of offending the Prime Minister. I say very few, because there were one or two who always managed to maintain very cordial relations with the Press and who even occasionally allowed a news-scoop or two. Kamaluddin Mohammed, for example, was one, but that would have been the exception, not the rule.

When I first got into this business, the older journalists were already all cowed by this political culture. It was regarded close to a sin to criticise the government in general or the Prime Minister in particular. I remember being seriously hauled over the coals by one editor because I had written a column in which I attempted to poke fun at the Prime Minister. I was told in no uncertain terms that, however the press in the developed world might think or act, in this country we had a different outlook. I distinctly got the impression that the press considered itself subservient to the government of the day. It didn’t help matters that the government of the day lasted for nearly three decades. Time enough indeed to implant all kinds of fears in the minds and hearts of a timid press.
If you will recall the experience of Guyana under the Forbes Burnham regime, the press in Guyana was told it had a subservient role to play in relation to the paramountcy of the party in power. I think the term "developmental journalism" became the norm. The press was regarded not as a check and balance on executive power but as an adjunct. One is tempted to say, a flattery to that power.

Trinidad and Tobago never openly took that road. But Burnham was at least declaring publicly what in fact was taking place very subtly in other countries, including our own.

I'll give you one personal experience of this political culture which I referred to in a book, edited on the subject, as an eye witness account of the 1970 Black Power upheaval. Sometime back in the mid-1960's the government proposed a new Finance Bill which the business community was very much up in arms against.

Furious attacks on the bill were spearheaded by the Chamber of Commerce and, as these things go, one evening my editor, an Englishman by the name of Robert Targett, got what is known in the business as a "hot tip" - to wit, that a secret meeting had been arranged between Dr Williams and a group of businessmen to discuss the Bill, and the meeting was being held without inviting the author of the Bill who, ironically, was ANR Robinson.

As any dutiful reporter, I went off that evening to Mary Street - that was where the meeting was supposed to be taking place - with a photographer in tow. In no time at all it was obvious that a high-level meeting was in fact taking place. I stood there, in the shadows opposite the house, and took down the names of some very prominent businessmen indeed. Then the dramatic moment - the black Austin Princess rounded the corner and from the back seat alighted the Prime Minister.

The photographer started snapping pictures and I was advancing to get what I thought would be an exclusive interview when the next thing I knew the Prime Minister simply roared, "who the hell are you?" at the cameraman, who managed to state that he was from the "Guardian Newspaper." As I drew up, he turned to me and snapped: I quote "You tell your editor I say if he publish any photograph or write any story he'll be on the first boat back to England in the morning."
You can imagine my consternation. This was the first time I was encountering a politician holding such high office. When we returned to the office and informed our editor what had transpired, the poor fellow bravely tried to go ahead anyway and get the story out. But he felt constrained to phone the newspaper publisher, or managing director, and bring him up to date. And the then managing director, who was a Canadian, didn’t take the threat lightly, in fact he killed the story and the photograph.

I don’t want to get distracted too much by the discussion on who owns the media and the issue of conflict of interest; but I don’t think it was insignificant that even after independence this country’s sole daily newspaper was owned by a Canadian, Lord Thompson of Fleet Street, and run by an Englishman. The press itself reflected the colonial model. I have no doubt that that also contributed to a cynical if not contemptuous view of the Press.

Suffice it to say that the 1960 Finance Bill was subsequently withdrawn and modified and the then Finance Minister was shunted on to External Affairs - a story with many implications, all of which were mostly lost to the public because the press had been intimidated.

It was an experience that rankled, and I still wonder today to what extent it informed my own investigation of a number of bribery and corruption stories in the late 1970s and maybe 1980s. By that time, the press was waking up from its slumber and taking on issues that it wouldn’t have dared touch in the not too distant past. I think the fact of another daily newspaper, brash and aggressive in its youthfulness, had a lot to do with it, as competition normally does.

People had been asking a lot of questions about the political culture of the day and rumours of skulduggery within the corridors of power were rife. When the media did begin to dig into, investigate and clamour for answers, it was in fact responding to demands being made in the wider society.

When I hear people complain today that there’s not enough hard investigative reporting, I couldn’t agree more. But I’m also acutely aware of the political climate in which our press grew up, even as the climate has changed and is changing in ways I would never have thought conceivable 30 years ago.
There's also the fact - and Raffique Shah made this point - that our libel laws tend to act as gags. During my investigation, for example, of the secret commissions paid to certain local agents when BWIA purchased four DC-9 aircraft, I was sued for libel by both Dr Williams and former Minister John O'Halloran. And in spite of that, I managed to get Mr. O'Halloran on the phone just a few weeks before he departed Trinidad. To this day, I can remember his parting words. I quote - and I think this is the cynicism of the period - "I don't understand what the fuss is all about. The only thing I ever do wrong in my life is fight cock and love women."

This is a Minister responding to a query from a journalist about possible corrupt practices. This delivered complete contempt and impunity, of course.

While neither writ was ever pursued to the end, in effect the mere filing of the writ forced a shutdown of further reporting or commentary on the issues.

I've heard some of our most prominent lawyers argue that not only are our libel laws borrowed from England, the English law has since been updated, or liberalised, while our own law remains stuck probably in some pre-World War One mode.

Be that as it may, I have seen the press slowly but surely evolve out of a culture of intimidation to the other extreme, where some sections of the press today have borrowed another kind of tradition from abroad - the tradition of the "News of the World" and other dubious publications. I suspect, though, that this is a natural reaction to the kind of timidity that the press, and journalists in general, exhibited twenty or thirty years ago.

We, perhaps, still have to strike a balance and I believe that the updating of our libel laws is a critical part of that balance. We still need the kind of press that does not simply exult in bacchanal or hysteria, but which does the more responsible job of scrutinising public policy and public officials in the public interest.

I don't think we've arrived at that yet. But I think, coming from where we began, we have exposed the culture of intimidation. The people, who have benefitted the most from this, is a society more enlightened about itself and its public officials today than it has ever been in the past. In that context, I think the press has a very challenging future still ahead of it.
The Media, the Panel has agreed, has an important social role, and consequently wields a significant influence on integrity in public affairs. Its capacity to influence and shape ideas, opinions and public policy is acknowledged universally. Journalism, the Fourth Estate is more than a Profession - it is a mission.

More and more, one experiences the impact of the media through talk shows, game shows, periodicals, infomercials, commercials, articles, news, live programmes, and movies.

The impact on one’s daily life is almost pervasive.

There is, hence, a need for truthful, objective, and unbiased information. Excellent work by the news gatherers and disseminators is critical to the smooth, effective, and efficient working of every democratic system. In a small society like ours, this work is all the more important to the democratic process and to the promotion of integrity in public affairs.

**What is the role of the Media?**

The work of journalists in our society provides a regular open conduit of information from government and from public institutions to members of the public.

Constitutional guarantees, enshrined at Section 4 of our Constitution, relative to freedom of thought and expression and freedom of the press, serve to provide space to allow a regular diet of accurate and timely information, to ensure that the public is reasonably able to judge the performance of public officers and improve accountability of public institutions.

Investigative journalism demands that the media question and probe the actions of those in authority and expose abuses of power, incompetence, corruption and other improprieties. The potential to investigate and publish matters relating to bureaucratic maladministration is of particular importance. It is one of the most efficient and effective ways of ensuring that inefficiency, dishonesty, and lack of integrity are not permitted to corrupt the whole system or cause injustice - "injustice anywhere", as Martin Luther King observed, "is a threat to justice everywhere."
The media, it is submitted, also have a responsibility to ensure that their research and investigations are thorough. That information, when presented, is accurate and factual cannot be over-emphasized. For, while excellent investigative journalism can weed out impropriety and breaches of integrity, sloppy journalism results in half truths, innuendos and misrepresentation. It undermines confidence in the media and in public institutions. Weeds of malfeasance and impropriety thrive in such an environment.

Moreover, there is the real possibility of defamation of character. The law recognizes that every man has a right to have the estimation in which he stands, in the opinion of others, unaffected by false statements to his discredit. Consequently, the law restrains the publication of defamatory matters or awards damages for loss of good name which results therefrom.

Communications, designed to expose public officials to hatred, ridicule, contempt or to cause them to be shunned or avoided by well thinking members of the public, are actionable in tort. These communications, separate and apart from compromising integrity, constitute a libel, if published in writing, or a slander if published in transient form.

The media has a responsibility to inform the public about matters of national interest, topical issues and matters of the day. Theirs is the mandate to educate readers, a substantial percentage of whom are impressionable young minds.

The media has a responsibility, in addition to that borne by parents, teachers, the family and social institutions, to mould and develop informed public opinion and positively impact public policy.

Thankfully, in many instances, this is achieved in the form of well written, well researched, balanced editorials; reproduction of letters to the editor; through the medium of talks shows, interviews, call-in programmes and so forth; all of which serve constantly to challenge decision makers to rethink, refine, and reverse positions on current issues, legislation and policy positions.

Regrettably, the news is not all good. With the recent opening-up of the media, which is a salutary move, has emerged an explosion of radio and television stations and, of course, now today, the Newsday - newspaper. With it has come a rash of new programmes and information. Some extremely commendable others more dubious. Some sections of the media, and even
editorials, have urged restraint in language, avoidance of sweeping generalizations and non-condemnation of broad segments of our society. Unless responsibility and restraint are exercised, such programmes may have an adverse influence on confidence in public institutions, performance or perceived performance of public officials and standards of behaviour. There needs to occur greater self regulation.

What I want to do is to develop a point made by Mr Shah, and ask the question "What about the increasing incidence of violation of ethical standards?"

Graphic pictures of scantily clad women and men, either alone and/or jointly, frequently grace the front covers of many of our print media in the most compromising positions. Daily, the captions and the pictures become suggestive, accompanied by even more explicit headlines, cleverly constructed and crafted to avoid the reach of the law. Surely, such captions and photos do little to promote integrity and ethical standards. If anything, in a country embattled with drugs, faced with difficult economic circumstances and troubling unemployment, they serve only to fan the flames of immoral behaviour, violent activity and violent crime. While the law cannot create a moral man, it can help to create a moral atmosphere within which the force of the law serves to act as a check on one's baser instincts.

This may be an area worthy of consideration when all of the recommendations for more effective and more comprehensive integrity legislation are considered.

Conflict of duty and interest is not confined to government. All public officers, including members of the media, in the discharge of their responsibilities are required to take actions and make decisions which affect the lives of ordinary citizens. It is a privileged position which carries with it ethical obligations. Corruption, bribery, theft are criminal matters falling under the purview of the courts. More difficult are the ethical issues - improper or biased exercise of judgment, innocent or deliberate half truths, and omissions. Should guidelines be voluntary? Have voluntary guidelines proven effective anywhere? It is difficult, if not impossible, to legislate morality, but perhaps part of the solution may lie in the development of a Code of Ethics, to preserve freedom of the Press while simultaneously promoting ethical conduct.
One final point. Issues of abuse of "Insider Information", and by extension "Insider Trading", acceptance of gifts, improper lobbying i.e. lobbying to pursue goals of single interest groups with which one is associated, may also amount to violations of the canons of ethical conduct and are no less a threat to integrity in public affairs.

Rights of privacy and freedom of the press must be preserved. These must be balanced however, against the public good. What is being advocated here is the development of a Code of Ethics prescribing comprehensive standards of behaviour and a system of treatment of complaints which, while promoting the highest standards of ethical conduct, also preserve the freedom of the press.

---OOO---

Jones P. Madeira

In terms of our own role, as media, as far as influencing Integrity in Public Affairs is concerned, I thought this has been a beaten subject from time immemorial; and I truly do not know what new there is to be said about the issue. In a nutshell, we are the answer to the calypsonian's question about "who will guard the guards." That is it, in a nutshell. Whether we have been doing it effectively, is I suppose, the major issue up for debate; or whether there is a greater chance now of media scrutiny of the guards of our society, given the landscape, the expanded landscape, within which media in Trinidad and Tobago now operate.

I would like, however, to internalize the discussion a bit and to suggest, and to agree with Raffique Shah - not because he has opened up the debate about circulation figures, I assure you - that the very presence of new battalions in our media army makes it incumbent upon us in the media to create, more than ever before, an environment in which our practitioners are seen as people of integrity themselves; where professional integrity becomes the order of the day. This has to be so. It cannot be any other way, if we accept that, as media, our philosophical ideal is the quest for what is true and what is right; that we operate in the public trust, with resulting social responsibilities, and social responsibilities without which, according to one major study, the press would be but a business like others, and the market its only law.

It's not as if media in this part of the world has not recognised that factor. I go
back to very proud involvement with the development of the Caribbean News Agency. There, in recognition of this factor, there was put in place a board of trustees, whose responsibility also lay in ensuring the editorial integrity of the institution.

Media, at the level of the Caribbean Publishers and Broadcasters Association, concerned about the public trust and editorial integrity of regional media as well, set up what has been known as, and what has been called, the Caribbean Press Council. Media workers - and that is, people working at the level of the Caribbean Association of Media Workers - have developed a Code of Ethics for its membership. But, if I might say so myself, in all of these very laudable efforts, there is a lack of dynamism, almost a type of hiatus, in having these institutions make their mark in the promotion of integrity and public trust in the media in our countries. It is also a criticism that I have - Gerry alluded to it, and a couple of members of the panel - it is a criticism of our own Media Association of Trinidad and Tobago, which just recently received a National Award and went to collect it.

This is the major point that I wish to make at this exercise today - and, here, I support Raffique wholly - that we cannot, as media, continue to take it for granted that we are licensed to put everyone else, every other institution, under the microscope without from time to time or, perhaps, all the time, indulging in some introspection and responding accordingly. And responding accordingly could mean, national media determine for themselves the mechanisms to encourage that introspection; as against mechanisms forced upon us by the state.

In wanting to make some suggestions as to what that mechanism could be, I came up against some suggestions from a study, sponsored by UNESCO but collated by an editorial Director and Honorary Vice President of the Guild of British Newspaper Editors, as to what the purpose, aims and objectives of such mechanisms could be. These include - and they go around areas upon which there is no competition, since competition is the major order of media in the country today - these include:

- preservation of the freedom of the media of mass communication resisting attempts to restrict access to information, including legislation which has this effect.

- encouragement of high ethical and professional standards, including either the drafting of possible formal Codes of Ethics or codification of a body of case laws for the guidance of media practitioners;
promotion of understanding and trust between the media and the public, and providing machinery for the consideration of complaints by the public against the media and vice versa;

- intervention between governments and the media, where needed, and advice to governments on legislation (and one hopes there would be none) on proposed legislation affecting the proper performance by the media of their duties and obligations to the community.

We are already fully covered in the laws of libel in the country. I wanted to talk a little bit about that, but I think that has been developed sufficiently.

In this country, there are so many journalists who operate without understanding the laws of libel. In any event, the laws are so archaic that, even those of us who understand, forget what they are all about, in the first place. One of the problems that I have found, and one of the questions that I have been asking myself, is - with the rapid proliferation and expansion of the media during the last year, particularly - are we ready for this? Have we trained people for it? Is the competition going to do anything that enables us to understand that there should be people in this business that need to know what it is all about?

I think it is the major question for the media managers to answer now, to look at it more. In any discussion on media and integrity, or any other social issue, the question here is:

"Are we training the young people, who are entering the profession, enough to face up to the challenges that lie ahead?"

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Anthony Frazer

Jones raised some questions - he's really asserting that we have to be the "guards". But then he raises the very important question - "Do we have the capacity? Will you allow us? Have you assigned us the responsibility of guarding the guards?"

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I would like to throw out something to the panelists, and that concerns the question of the Integrity and Morality of the Media, in seeking or gaining, and in the perception of some persons, buying information from public officers.

Recently, for instance, a Minister claimed that some very confidential information, addressed to a very senior officer in the public service, reached the press. Very few people had access to this letter from the Public Service Commission or from his Permanent Secretary. We said, "He couldn't do anything more; he might as well go to Woodford Square and talk it out." And this is an interesting thing in my view; because, this is one extreme.

The other extreme is, the way things are in the Public Service. Many public officers will refuse to give a Journalist even a telephone number, or the name of his boss. In a way, this may come about because the way the regulations under which we operate are viewed, it virtually stifles the public service from any kind of information giving. I think this is bad, because when you think about it, the public service is very large; and it is really an area where a lot of information should be given to the public. But, you find that public officers are virtually stifled from giving out any information.

---OOO---

Corey Joseph
(Participant From the Floor)

What I would like to know, is the media committed to open the debate on the Tesoro Scandal, so that the public could know what is really happening? I think that is really important. I would put that question to Mr. Raffique Shah especially.

---OOO---

Glenroy Baptiste
(Participant From the Floor)

In pursuit of the whole question of the Integrity in Public Life; and in support of the Integrity Legislation. Would we consider the establishment/enactment of a Freedom of Information Act in Trinidad and Tobago?

---OOO---
With respect to the first question, whether or not we pay people for information. On behalf of my group of Newspapers, I would say 'no', in a general sense. There are very specific cases, in which people may have very vital information and, moreso, documents rather than information that one would need to back up what we may consider extremely good stories. One may be prepared to pay something in order to get such documents.

I recall an instance when a particular Cabinet Minute, an original copy, if I may add, came to me directly via a source whose name I will never reveal - I prefer to go to jail, rather than to reveal the source of information like that. This document was the one that related to the payments made, or to be made at the time, to the English Counsel who was then representing the State in the matter of the Jamaat versus the State, the appeal matter.

It became the subject of discussion in the Court, and, eventually, the Judge did not summon the various Media Houses that subsequently copied details from that Minute that I had originally published. I paid nothing for that. It was brought to me; and what was most interesting about it, is that the document - and mark that I said it was an original Cabinet Minute, a copy of the original Cabinet Minute - came out of the Ministry of National Security and that came post-1990, So it set me thinking. After the fact, I called the relevant Ministry and indicated that I was prepared to return the document. I was not prepared to indicate to them how it got to me. But, I indicated a state of insecurity.

I should add that people gain a certain confidence in either a Media House, or a particular Journalist, or an Editor; and, if and when they do that, they pass information on to you without demanding any payment for such information. Such is the kind of confidence that is built between the Journalist and/or Editor and individuals who are well placed to get information. That is the way I think we all generally get our information.

One thing we have to guard against in a situation like that, is being set-up; because there are people who are waging their private wars, whether it's inter-party, intra-party or whatever; and they may tend to want to pass on information to you that is meant to bring someone into disrepute and to further their own cause. One has to guard against that.
With respect to the second question, on the Tesoro scandal, suffice it to say that scandal was raised - I remember personally being part of a group of Parliamentarians who had raised it back in 1976/81, as far back as that. Maybe it was raised even before that, I don't recall, by Parliamentarians who were there before us. But I was, in the period '76 to '81 with Senator Horne who was there at the time; and that matter came up on several occasions; it was raised then.

It was also raised in the Press; but we now return to the point of the laws of Libel. The person who raised the question must understand that, should we pursue and continue to name people - we may have names, we believe we have information that is very correct as to who got what - but can we publish such information without the risk of having to go before the Court, hauled before the Court - I shouldn't say go before the Court - being hauled before the Court and having to pay astronomical sums by way of settlement for things that we know that we are correct on? This is why I made that appeal earlier - and the appeal was repeated here from this table and elsewhere - for the updating of the laws pertaining to Libel.

---OOO---

Anthony Frazer

Let me ask Mrs. Mills a question that comes out of that. We here, all individually received information from a Public Servant - and, let me say that Public Servants are not the only people who pass on information to Journalists; people higher up than the Public Servants do it also.

I have not had an experience where a payment has been required, so let me ask Mrs. Mills to speak on the integrity of that. We are talking about Integrity in Public Life and there are Public Service Regulations against that kind of thing. What of the integrity of us, in accepting such information?

---OOO---

Therese Mills

Personally, in my long career I have never paid for any document; and I don't think that the Newspaper that I was associated with ever paid for documents. But I support the premise earlier made that people leak things to us regularly from all sources, from the highest in the land. When I say "the highest", I exclude the President; but from below him. And I do not believe that one should pay for the
information. I would have a very difficult time in deciding, if somebody offers me a document and demanded payment, that I would want to say, 'yes, I would pay for it.' I would imagine that every issue would have to be conducted in its own way.

Take, for example, the death of all these patients at the St. Ann's Hospital. Fourteen patients have died, nobody knows why, nobody knows what went on. If somebody came to me with a document really setting the facts down, and giving names, times, information, details, and said that the only way we could have it is if we pay a fee, I would weigh the public interest of that information; and on behalf of the relatives of all the patients who had died, and on behalf of all the patients in Hospital, I would think that in the public interest one should do everything, including paying for the document, to get that document, to find out what really happened. It's a public issue.

But, if somebody should come with a document which really doesn't change the price of bread tomorrow morning, it is a good story, it is interesting, but it's probably just a personal row going on between somebody or something, and really had no real great impact on a topic of interest, I would definitely say, "No, we are not offering any payment."

---OOO---

Raoul Pantin

I think that the Media operates always on a two-way street. The Media reports to the Public and, in the Newspapers, for example, we have another stage - the Public reports back to the Media. There is a constant interaction between the public and the Media all the time. I don't know about receiving documents, but your telephone rings a lot. Sometimes the calls are anonymous, but no journalist can afford to ignore a call, whether anonymous or not, because it might lead to something. I believe it is a two-way street.

In this country there has been a tendency, in the historical context of which I was speaking earlier, for people to be intimidated. A lot of the letters that come to the Press and that raise issues, for example, are persons who say, "please don't use my name".

One occasion in this country, when I was really cheered by Public response was - this was during the post-1970 Black Power Fever - the Government tried to pass the 1971 Public Order Act, and there was a tremendous upheaval right across the whole spectrum of the society. That was a society that had been frightened by an
Army Mutiny the year before, and yet, all over, the country had been terrified. Not only the country had been quite terrified. It was amazing how, just a year afterwards when the Government tried to pass a very draconian piece of legislation - that was the 1971 Public Order Bill, when the Police could arrest you without a warrant, they could enter your house, and that sort of thing - there was a tremendous appeal against it; and the Press and the Public played a very important role, in tandem, in fighting that Bill.

Eventually, Public opinion won; or, perhaps, it was a draw, for it subsequently was brought back into the section of the Summary Offences Ordinance where such things are done.

I believe that, without public opinion, the Press is weak. It is easily intimidated, if the people don’t stand up. If people don’t stand up and back the Press, back freedom of expression, sometimes the Government picks you out. The weaker the Government thinks the Press is, the more powerful the Government behaves. If the Government believes that you are living in a society with a very vibrant Public opinion, the Government tends to be intimidated; and I prefer it that way.

---OOO---

Jenes P. Madeira

When one talks about the Freedom of Information Act, I am really not too sure what we are talking about. What kind of information is "free information"? It goes to the very heart of what you are talking about - the very integrity of people, us, accepting information that is leaked. What type of information is that? Is it information in the public interest?

If it is a document in the public interest, it is something that would include matters like, detecting or exposing crime or serious misdemeanor; detecting or exposing anti-social conduct; protecting public health and safety; preventing the public from being misled by some statement or action of an individual, an organization or the Government and so on. If something is in the public interest, we have a responsibility to report. That is my point of view.
On the whole question of the Freedom of Information, you would have tremendous debates about this very thing - the strictures imposed upon Public Servants in speaking with the Press, in discussing things that are quite normal to be discussed. And if there is some kind of legislation that protects them in dealing with things that are clearly in the public interest, then I am totally for it. I think it should be so.

---OOO---

Gerry Brookes

I just want to endorse some of the comments made by my colleague, Jones Madeira, and perhaps just add one or two points.

Perhaps, we may be getting to the area of financial reporting; and one may need to have greater accountability and more timely reports coming from the public sector. Perhaps, too, it may be delving into the whole area of ethical behaviour by Public Servants; and, again, one may want to have some Code of Ethics drawn up to govern public behaviour.

In addition, there is the need for better training of journalists, as Jones pointed out, and a strengthening of the disciplinary provisions as they apply to Public Servants.

The whole notion of a "Freedom of Information Act" is a very difficult thing to wrap one's hand around. Perhaps it may be approached through financial reporting; through a Code of Ethics; through disciplinary provisions and, of course, better education and improved training of journalists.

---OOO---

Louise Horne

I am going to look at it from a different point of view. It is freedom of information. I sometimes read the T&T Mirror and I read all the points they make - quite a lot of information given, - which appear to me as substantial facts about what is happening; where it is happening; who are the people involved. But, how come we are not getting any response at all to the information they give, although the information is of great public interest? Why is it that the people, who really can do
something about it, seem either to hesitate or not to take it as something on which they can act? I would like to know something about that.

You seem to feel, afterwards, that those who are supposed to protect and serve are just afraid to protect and not able to serve.

---OOO---

Dr Harry Collymore

Not everything that is true can and should be revealed every time. There is a proper time for revealing information. Sometimes that information may be dangerous to the reputation of someone, very sensitive information, about which perhaps everything may not be known; and if it is revealed at a particular time, it may do damage to that person.

Obviously, a society must run on information being freely available to people, but one has to consider, also, whether the public interest can be served by giving out that information at that particular time.

---OOO---

Arthur Mc Shlne
(Participant from the Floor)

This is a specially important afternoon for me; because, in the last three years, taken as a whole, journalism in Trinidad has seen, probably, its finest hours. I was glad that Raoul Pantin gave us the historical perspective.

We are going through a period, or entering a period, in which I want to give moral support, whatever short-comings there may be, all moral support, to the journalistic profession and their efforts in the news media.

As regards, the point about protection- not protection of sources, whether one should accept documents - you just have to recall Richard Nixon and Watergate. You just have to recall that it is strongly suggested that one particular source of information, broke the Nixon Administration.

---OOO---
Dr Lewis has been a public servant for much of his working life; and he understands the problem. What has been coming out in the discussion is that, in the interest of the public, it is morally right to accept a document that will disclose information not being made public, I think Mrs. Mills used the instance of the St Anns Hospital to illustrate a point that, in the public interest, it is useful to allow Public Servants to leak documents "under the table". Can we get too far along that road where we allow every Public Servant to say something to the media? Your experience?

---000---

Dr. J. O'Neill Lewis

When I became a Public Servant, no one would dare, would even consider it right, to leak information, leak secret documents that you had knowledge of, that had come to your knowledge by virtue of your official position. But I am aware that things have been leaked in the past. I don't think it's right, myself. That's my own personal view.

---000---

Rafique Shah

In matters pertaining to "National Security", there ought to be a time limit. Such a system exists in the United States. After a certain number of years, on matters that are sensitive to the State in relation to national security, in particular, a "time factor" is imposed. After the expiry date, one can access that information freely.

However, I think that, in our situation here, there's information that ought to be available to the public. The most recent example I recall is the gas contract between AMOCO and the Government. I think that was raised earlier, I think by Senator Mark. Minister Barnes was quoted as saying that that contract is "private information"; and in spite of several efforts by the media, by Parliamentarians, to get that information out of him, that information has not been forthcoming - details of a contract between AMOCO and Government.
I believe that such matters impact directly upon the population and, in some instances, negatively.

Given the financial implications of such a contract, such matters ought to be made public the moment those contracts are signed. I'm not saying that you should breach the sort of confidentiality that exists in a lawyer/client kind of relationship; but here, you are acting on behalf of the population. You are committing the Government, and hence the people, to a contract that will last for twenty years. I believe that people ought to know what the essential points in that contract are.

---OOO---

Anthony Frazer

I think there is a consensus here that the media do have a role to play in guarding the public interest but we need to clean up our own act also.

---OOO---
THE RAPPORTEURS

RAPPORTEUR COORDINATORS

Hugh Wooding Law School

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RAMOUTAR, Irani
ROOPNARINESINGH, Kavita
SAMMY-WALLACE, Marilyn
WILLIAMS, Gillian
Part III

The Resource Papers
AN ACT to provide for the establishment of an Integrity Commission for the purpose of receiving declaration as to the financial affairs of persons in public life and for matters incidental thereto.

{Assented to 11th May, 1987}

Whereas it is enacted inter alia by subsection (1) of section 13 of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided by subsection (2) of the said section 13 of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

ENACTED by the Parliament of Trinidad and Tobago as follows:-

1. (1) This Act may be cited as the Integrity in Public Life Act, 1987.

(2) This Act shall come into operation on a day appointed by the President by Proclamation.

(3) This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.
PART I

PRELIMINARY

2. In this Act-
   "person in public life" means a person referred to or listed in the First Schedule;

   "tribunal" means a person appointed by the President under section 23(2).

3. This Act applies to every person in public life.

PART II

THE INTEGRITY COMMISSION

4. (1) There is established an Integrity Commission (hereinafter referred to as "the Commission") consisting of a Chairman, a Deputy Chairman and three other members.

   (2) At least one member of the Commission shall be a chartered or certified accountant.

   (3) The Commission shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

   (4) Subject to section 6, a member shall hold office for the period specified in his instrument of appointment and is eligible for reappointment.

   (5) A person may not be appointed a member of the Commission unless he is a citizen of Trinidad and Tobago, who is not a person in public life.

   (6) Three members, of whom one shall be Chairman or Deputy Chairman, shall form a quorum.
5. (1) A member other than the Chairman or Deputy Chairman may at any time resign his office by instrument in writing addressed to the President and transmitted through the Chairman and, from the date of the receipt of the instrument by the President, that person ceases to be a member.

(2) The Chairman or Deputy Chairman may at any time resign his office by instrument in writing addressed to the President and, from the date of receipt of the instrument by the President, that person ceases to be Chairman or Deputy Chairman, as the case may be, and a member of the Commission.

6. (1) A vacancy in the membership of the Commission occurs-

(a) on the death, resignation or revocation of the appointment, of a member;

(b) on the absence of a member from three consecutive meetings of the Commission, unless the absence is approved by the President;

(c) on the expiration of the term specified in a member's instrument of appointment.

(2) 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.

(3) The Chairman, Deputy Chairman and other members of the Commission shall receive such remuneration as shall be determined by the Salaries Review Commission.

7. The appointment, resignation, revocation of appointment or death of a member of the Commission shall be notified in the Gazette.

8. The Commission shall-

(a) receive, examine and retain all declarations filed with it under this Act;
(b) make such enquiries as it considers necessary in order to verify or determine the accuracy of the declaration filed under this Act;

(c) perform such other functions it is required by this Act to perform.

9. In the performance of its functions the Commission is not subject to the control or direction of any person or authority.

10. (1) Subject to subsection (2), the Commission shall, not later than 31st March in each year, make a report to Parliament of its activities in the preceding year and the report shall be tabled in the Senate and the House of Representatives not later than 31st May, so however that the report shall not disclose the particulars of any declaration filed with the Commission.

(2) The Commission shall make its first report to Parliament not later than three months after the end of its first year of operation and the report shall be tabled within three months of its making.

11. The declarations filed with the Commission and the records of the Commission in respect of those declarations are secret and confidential and shall not be made public, except where a particular declaration or record is required to be produced for the purpose of or in connection with any court proceedings against, or enquiry in respect of a declarant under this Act, the Perjury Act, the Prevention of Corruption Act, the Exchange Control Act or the Commissions of Enquiry Act.

12. (1) Every member of the Commission and every person performing any function in the service or as an employee of the Commission shall treat all declarations and records and information relating to such declarations as secret and confidential and shall not disclose or communicate to any unauthorised person or allow any such person to have access to any such records, information or declarations.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of twenty thousand dollars and two years imprisonment.

(3) An unauthorised person is a person other than a person authorised to receive information.
(a) under this Act in relation to the financial affairs of persons in public life for the purposes of this Act; or

(b) by reason of an order of a Judge of the Supreme Court.

PART III
FINANCIAL DISCLOSURE

13. (1) Every person in public life shall file a declaration of his income, assets and liabilities with the Commission.

(2) The declaration shall be in the form set out in the Second Schedule and may be accompanied, if the declarant so wishes, by a statement relating to the net worth of the declarant as indicated by details of his income, assets and liabilities certified by a chartered or certified accountant.

14. A declarant may be required by the Commission to furnish such further particulars relating to his financial affairs as may be considered necessary for the purposes of section 8(b).

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

(2) The declaration shall be filed irrespective of the fact that, during the year in respect of which the declaration is required or in the following year, the declarant ceased to be a person in public life, otherwise than by reason of death.

(3) Where on the day this Act comes into operation a person is a person in public life, he shall complete and file with the Commission a declaration in the prescribed form within three months of that day.

(4) A person who becomes a person in public life after the commencement of this Act shall, not later than three months of his becoming a person in public life, file a declaration in the prescribed form with the Commission.
(a) all or any part of his assets are conveyed to the trust company for its management, administration and control, in its absolute discretion without recourse or report to the persons beneficially entitled to those assets;

(b) income derived from the management of the assets is to be distributed to him as agreed;

(c) should the assets be converted into other assets, that fact is not to be communicated to him, until he ceases to be a person in public life; and

(d) after he ceases to be a person in public life proper and full accounting is to be made to him, as the circumstances of the management of the trust require.

(5) A trust company is a qualified trust company where-

(a) It is incorporated in Trinidad and Tobago and is carrying on business in Trinidad and Tobago;

(b) no more than five percent of the issued shares in the trust company or its affiliate is held by the person in public life entering into an agreement with it, or by any other person associated with him; and

(c) the person in public life holds no directorship or office in the trust company or its affiliate.

(6) A company is the affiliate of another where it holds more than five percent of the issued shares in that other or where that other holds more than five percent of the issued shares in it.

(7) For the purposes of this section, a person is associated with another where that other is-

(a) the spouse or child of the person; or

(b) the partner of the person in a professional, trade, or commercial undertaking; or
(c) a corporation and any person mentioned in paragraph (a) or 
(b) controls the corporation, its holding corporation or a 
corporation affiliated with either.

(8) In subsection (7)-

(a) "child" means a child whether of full age or not and includes 
a child of the family within the meaning of the Matrimonial 
Proceedings and Property Act;

(b) "control" shall be construed in accordance with rule 3 of the 
Third Schedule of the Corporation Tax Act.

PART IV

MISCELLANEOUS

22. Where a person who is required to do so fails to file a declaration in 
accordance with this Act or without reasonable cause fails to furnish particulars 
under section 14, the Commission shall publish the fact in the Gazette.

23. (1) Where the Commission considers it necessary or expedient to 
enquire into the accuracy or fullness of a declaration filed with it, the Commission 
may, under subsection (2) advise the President to establish a tribunal for the 
purpose.

(2) The President shall on the advice of the Commission, appoint as a 
tribunal one or more members of the Commission to conduct an enquiry to verify 
the contents of a declaration or other statement filed with the Commission.

(3) For the purposes of any inquiry under this section a tribunal may, 
subject to subsection (4), request in writing that the declarant or any other person 
who the tribunal reasonably believes has knowledge of the matters to be inquired 
into-

(a) attend before the tribunal to give it such information as it may 
require to satisfy itself that it is in possession of all the 
material facts;
Integrity in Public Life Act

(b) furnish such information or documents as would assist the tribunal in verifying the declaration.

(4) An inquiry may not be commenced after five years from the date when the person in respect of whose declaration the inquiry is being conducted ceased to be a person in public life.

(5) Where the Commission is of the view that a breach of any of the provisions of this Act may have been committed, the Commission shall take such action as it deems appropriate in any particular case and may without prejudice to the generality of the foregoing, furnish such information as it deems fit to the Director of Public Prosecutions.

24. In conducting an inquiry under section 23, a tribunal shall have and exercise the powers of a Commission of Enquiry, under the Commissions of Enquiry Act save that the proceedings shall be held in private.

25. Where, from an inquiry under section 23, a tribunal finds that a declarant had in fact made full disclosure in his declaration, it shall, if so requested in writing by the declarant publish a statement to that effect in the Gazette.

26. Where upon an inquiry a tribunal finds that the declaration which gave rise to the inquiry was in fact full and proper, the declarant is entitled to full indemnity and shall be reimbursed from the Consolidated Fund, for all expenses incurred.

27. (1) A person who-

(a) fails, without reasonable cause, to furnish to the Commission a declaration or further particulars thereof which he is required to furnish in accordance with the provisions of this Act,

(b) knowingly makes a declaration that is false in some material particular,

(c) fails, without reasonable cause, to give such information as a tribunal may require under section 23,

(d) fails, without reasonable cause, to attend an inquiry being conducted under section 23 or knowingly gives any false information in such inquiry,
is guilty of an offence, and liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for a term of two years, and where the offence involves the deliberate non-disclosure of property the Court may, in addition-

(i) where the property involved is situated in Trinidad and Tobago, declare that it be forfeited to the State;

(ii) where the property involved is situated outside Trinidad and Tobago, order that an amount equivalent to the value of the property (the value to be assessed as directed by the Court), be paid by the person in public life to the State.

(2) Property acquired from a person referred to in subsection (1) by a bona fide purchaser for value without notice of any offence of that person as provided for in this section is not liable to forfeiture but an amount equivalent to the value of the property or the price paid by the purchaser, whichever is the greater, shall be paid by the person in public life to the State.

(3) Payment of all sums due to the State pursuant to paragraph (ii) of subsection (1) or to subsection (2) may be enforced in like manner as a debt due to the State and any proceedings thereon on behalf of the State may be taken summarily.

28. No prosecution for an offence under this Act, other than an offence under section 12(2), may be instituted-

(a) without the written consent of the Director of Public Prosecutions; or

(b) after five years from the date when the person in respect of whose declaration or financial affairs the alleged offence was committed, ceased to be a person in public life.

29. For the purposes of the Income Tax Act, all outgoings and expenses reasonably incurred in a year of income by a person in public life in connection with the preparation of a statutory declaration required to be furnished by him for the purposes of this Act are deemed to be incurred by him wholly, exclusively and necessarily in the production of his income for that year of income.
30. (1) The Commission shall be provided with a staff adequate for the prompt and efficient discharge of its functions under this Act.

(2) The staff of the Commission shall be public officers appointed in accordance with section 121(3) of the Constitution.

31. All expenses incurred by the Commission for the purposes of this Act are a charge on the Consolidated Fund.
(1) It is a principle of public life that Ministers must so order their affairs that no conflict arises, or appears to arise, between their private interest and their public duties.

(2) Such a conflict may arise if a Minister takes an active part in any undertaking which may have contractual or other relations with a Government Department, more particularly with his own Department. It may arise, not only if the Minister has a financial interest in such an undertaking, but also if he is actively associated with any body, even of a philanthropic character, which might have negotiations or other dealings with the Government or be involved in disputes with it. Furthermore Ministers should be free to give full attention to their official duties, and they should not engage in other activities which might be thought to distract their attention from those duties.

(3) Each Minister must decide for himself how these principles apply to him. Over much of the field, as is shown below, there are established precedents; but in any case of doubt the Prime Minister of the day must be the final judge, and Ministers should submit any such case to him for his direction.

(4) Where it is proper for a Minister to retain any private interest, it is the rule that he should declare that interest to his colleagues if they have to discuss public business in any way affecting it, and that he should entirely detach himself from the consideration of that business.

(5) Ministers include all members of the Government except unpaid Assistant Government Whips.

Directorships

(6) Ministers must on assuming office resign any directorships which they may hold, whether in public or in private companies and whether the directorship carries remuneration or is honorary. The only exception to this rule is that directorships in private companies established for the maintenance of private family estates, and only incidentally concerned in trading, may be retained subject to this reservation - that if at any time the Minister feels that
conflict is likely to arise between this private interest and his public duty, he should even in those cases divest himself of his directorship.

Directorships or offices held in connection with philanthropic undertakings should also be resigned if there is any risk of conflict arising between the interest of the undertakings and the Government.

Shareholdings

(7) Ministers cannot be expected, on assuming office, to dispose of all their investments. But if a Minister holds a controlling interest in any company considerations arise which are not unlike those governing the holding of directorships and, if there is any danger of a conflict of interest; the right course is for the Minister to divest himself of his controlling interest in the company. There may also be exceptional cases where, even though no controlling interest is involved, the actual holding of particular shares in concerns closely associated with a Minister’s own Department may create the danger of a conflict of interest. Where a Minister considers this to be the case, he should divest himself of the holding.

(8) Ministers should scrupulously avoid speculative investments in securities about which they have, or may be thought to have, early or confidential information likely to affect the price of those securities.
Standards of integrity are nothing new. Man in his better moments is capable of appreciating right from wrong, but unfair dealing has been rife among mankind as long as civilization itself. Codes of Ethics reflect Man's aspiration to higher ideals by their appeal to his higher nature, and have for their sanction the displeasure of Man's colleagues when their rules are broken. On the other hand, Legislation, which carry the penal sanctions of the Criminal Law, is the latest attempt to bring about Integrity in public affairs. Can Man be made good by Act of Parliament?

To attempt to give an answer to that question, experience has shown that while legislation by itself may not achieve the goal of creating the moral man, yet its most significant achievement is that it can create a moral atmosphere within which Man can feel the constraints of Law to keep in check his baser instincts.

Our Commission has been looking at the strong instances legislative control over the activities of persons exercising governmental functions which is now taking place throughout North America among other places, and the recommendations which we have been making to Parliament over the past years for the strengthening of integrity legislation, have drawn their inspiration from the experience of those countries, notably from the Federal Government of the United States in Washington and the Province of Ontario in Canada.

Our Chairman recently attended the 14th Annual Conference of the Council of Government Ethics Laws (COGEL) held in Toronto in September 22 - 25, 1992, at which the registrants of COGEL members in attendance, numbered 181, drawn from persons concerned in the administration of ethics legislation throughout the United States, and Canada including Hawaii and Puerto Rico.

It is to be noted that the programme of ethics legislation in the United States especially laid strong emphasis on the topics of

- Lobbying legislation
- Campaign Finances and
- Election laws
in addition to the legislative regulation of the activities of the legislative bodies themselves, and also all public officers.

Furthermore, all ethics legislation gave power to their respective Commissions to exercise a supervisory jurisdiction over those bodies, by way of Opinions and certain powers of enforcement.

This is to be contrasted with the Westminster system of government which we inherited whereby in Britain the Parliament in Westminster is supreme in the legislative sphere, and maintains control over its members through its Committee of Privileges which exercises its power to enforce the Conventions established by the Parliament, and it is to be noted that this power extends even to the exercise of the drastic measure of expelling an erring member from Parliament.

All the principles of integrity legislation can be found reflected in those conventions. The difference between Britain and North America therefore, is not in Substance but in Procedure.

It would hardly be controverted to say that our Integrity in Public Life Act has failed to achieve the desired effect of establishing those constraints that would satisfy the general public that such an atmosphere of morality in public affairs exists. From its first appearance before the Parliament in 1987, the Act was subjected to serious criticism in the public debate; and its passage into law was conceded to be merely the first step along the road to integrity in public life.

The Constitution Commission appointed in 1987 under the Chairmanship of Sir Isaac Hyatali, came out in strong condemnation of the ineffectiveness of the Act; and there were drastic proposals made for strengthening of the powers of the Integrity Commission.

What is also of great significance is that all the major parties in the General Elections of December 1991 came out in favour of the strengthening of integrity legislation.

What the proposed Symposium hopes to do therefore, is first to raise for public scrutiny the Integrity in Public Life Act, 1987, and then to advert to the wider issues which touch on integrity in public life, bringing to bear the experience of other countries in this field.
The views here expressed are similar to those that are to be found in the Reports of the Integrity Commission to Parliament since 1988; and they have been collated into separate headings so as to form specific questions for discussion and answers by the Symposium.

What must be here emphasized is that these views are the views of the Integrity Commission, and do not necessarily reflect any opinion of the present or past administration.

The government of Trinidad and Tobago has, however, given its sanction and financial support to this symposium.

**TOPIC NO. 1**

**Who should be 'Persons in Public Life' within the meaning of the Integrity in Public Life Act?**

Section 138(1) of the Constitution of Trinidad and Tobago declared that:

The Commission shall be charged with the duty of:-

(a) receiving, from time to time declarations in writing of the assets, liabilities and income of

Members of the House of Representatives
Ministers of Government
Parliamentary Secretaries
Permanent Secretaries and
Chief Technical Officers

The view of the Integrity commission is that -

"the targeted areas of scrutiny for integrity standards should be towards those persons in public life who are concerned in the decision making process. This in our view would embrace not only members of Parliament, but members of the Municipalities and Local Government Bodies."
Our expanded list would include therefore -

- Members of the Tobago House of Assembly
- Members of the Municipalities
- Members of Local Government Bodies
- Full time Consultants and Advisers

and the Spouses and Minor children to such persons.

We raised a query against the inclusion of Permanent Secretaries and Chief Technical Officers in this list on the grounds that -

(a) they are not policy makers but are in reality the executors of the policies formulated by the policy makers; and

(b) all matters of discipline are already under the jurisdiction of the Public Service Commission as established in the Constitution.

We have reserved a special topic for the consideration of this matter.

(B) The Scope of the Integrity in Public Life Act, 1987

The operative section in this regard is section 8 which charges the Commission to-

(a) receive, examine and retain all declarations filed with it under this Act;

(b) make such enquiries as it considers necessary in order to verify or determine the accuracy of the declaration filed under the Act;

(c) perform such other functions it is required by this Act to perform.

Basically then, the main function of this Commission under the Act of 1987 is that of monitoring the due adherence by members to their requirement of filing the required Returns, and ensuring those Returns satisfy all the provisions laid down by the Act.

That the Act implicitly points to an expected standard of probity by persons in their private affairs is implicit in the provisions relative to the establishment of Blind Trusts.
These are provisions whereby a person can establish a Trust in which the trustees are required to manage the assets of the trust:

"In its absolute discretion without recourse or report to the persons beneficially entitled to those assets".

While the Act sets out criteria for the due establishment of such a trust, where it stops short is that -

(a) there is no requirement on any person to place his assets in a blind trust; and

(b) there is no provision whereby the proper maintenance of such a trust can be safeguarded.

The mischief against which the establishment of such a trust is designed to safeguard is that where a 'person in public life' has commercial dealings which could place him in a position where there is likely to arise a conflict between his private interest and his decision making in public affairs, then the day to day management of his commercial interests should be removed from his control.

Another aspect of this matter on which our Commission has pronounced is that notwithstanding that a Blind Trust may have been created, a further safeguard that should be put in place is that there should also be a-

**Public disclosure statement.**

While the Commission supports the necessity for confidentiality as to the details of a member's personal fortunes, yet we consider that where a person offers himself for public service, then the public has the right to know those areas of his commercial dealings which can have some impact upon his decision making that may create the appearance, even if not the reality, of a conflict of interest.

In this regard our recommendation has been that such a statement (which can be extracted by the Commission from the member's Return) should be made available to the general public for their scrutiny.
Our Commission has come out in favour of the exclusion from such a statement of the extent of the member’s finances; but it is to be noted that in the Ethics in Government Act 1978 of the U.S., a full disclosure is required to be made of the member’s declaration for public scrutiny. Our recommendation follows in this respect the Members Conflict of Interest Act 1987 of the Province of Ontario, Canada.

**TOPIC NO. 2**

*Should there be legislation establishing standards of ethical conduct, common to all government employees, and persons exercising public functions? If so, how should such legislation declare its functions?*

One of the thorny problems in the way of any satisfactory establishment of ethical standards by legislation has been the question as to where to draw the line. No man is above the law. Every person should be answerable to someone for the proper discharge of his public functions. There can be no warrant for the exclusion of any person from the need to demonstrate to his fellow man his adherence to an acceptable standard of ethical behaviour because of his exalted position in society. This, we expect, all persons would accept as being self evident.

We consider that legislation can have a crucial role to perform in this field, and we consider that there are two categories of offences which need to be treated separately. These are:

(a) The well known common law criminal offences of

   *Bribery*
   *Corruption*

   and allied offences, which have always attracted the stringent provisions of the criminal law of every country; and

(b) A new breed of offences which have never been breaches of any law, but which offend against public morality
Certain countries have now taken the lead in declaring such conduct to be 'offences' which are declared to be subject to the restraint of law. Notable examples of such legislation can be seen in the -

- Prevention of Bribery Ordinance of Hong Kong Chapter 201;
- Corrupt and Illegal Practices Ordinance of Hong Kong Chapter 288;
- Independent Commission against Corruption Ordinance of Hong Kong Chap. 204;
- The Prevention of Corruption Act 1947 of India;
- The Ethics in Government Act 197 of the United States;
- The Members Conflict of Interest Act 1987 of the Province of Ontario

among other legislation that bear on this matter.

The first category of offences -

(A) We consider to be properly within the province of the established law enforcement agencies, and should so remain.

What an inquiry into integrity standards can properly do, however, is to re-examine those areas of criminal behaviour so as to ensure that adequate provisions have been put in place for law enforcement.

(B) The second category of offences we consider should fall within the province of those Commissions under our Constitution which have been charged with the responsibility of maintaining proper standards of discipline. These are:

- The Judicial and Legal Service Commission
- The Public Service Commission
- The Police Service Commission
- The Teaching Service Commission
- The Statutory Authorities Service Commission
- The Integrity Commission
Having established under the general law what are the offences against public morality, then it would become incumbent upon each Commission to establish its own procedure for the regulation and control of infractions against such law.

It was with this principle in mind that we consider it inappropriate that the Integrity Commission as such should have under its purview, Permanent Secretaries and Chief Technical Officers, since all matters of discipline have already been entrusted to the Public Service Commission and indeed to the other Commissions under the Constitution.

**TOPIC NO.3**

**Should there be created offences against public morality in respect of -**

(a) Conflict of Interest  
(b) Insider Trading  
(c) The Acceptance of Gifts  
(d) Influence Peddling  
(e) Lobbying

(a) **Conflict of Interest**

This we have defined as being:

Where a person makes or participates in the making of a decision capable of or calculated to further his or her private interest or for any oblique motive (1990 Report)

The perception of a conflict of interest situation is however not always a simple matter; as the following quotation from the 1991 Report of the Commissioner of the Ontario Commission on Conflict of Interests demonstrates:

"Perception of a conflict of interests is an individual subjective appreciation of a situation or set of circumstances which may not in fact be true. It is an intuitive recognition which is subject to distortion by false rumours, media manipulation or public relations hyperbole."
The frequently suggested standard is that a legislator should not engage in conduct which would appear to be improper to a reasonable, non-partisan, fully informed person. The problem with such an appearance standard is that there are few, if any reasonable, non-partisan, fully informed persons, and I doubt many would accept such a definition as proper criteria for measuring the behaviour of legislators."

We hasten to emphasize that the Commission was referring specifically to legislators in the Province of Ontario. However, the quotation may be considered valid as pointing to the difficulties we might find in the way of determining what is or is not a true situation of conflict of interest. It is for this reason that we consider that the subjective appreciation of a situation cited above, should be made capable of review in the manner advocated to in the next topic.

(b) **Insider trading**

In our rapidly expanding commercial sector, this is a topic that is becoming more important.

So far as concerns persons discharging governmental functions, their access to private and confidential information obviously places them in a situation that calls for a high standard of ethical behaviour. To make a profit out of their position of access to such information is clearly morally reprehensible. Should the sanctions of law be now made to apply? In the view of our Commission they should.

(c) **The Acceptance of Gifts**

In some communities bribery is accepted as the normal way of smoothing the path of officialdom. It can take the form of an outright gift of money or goods, or the more subtle form of treating as by providing services like the payment of tuition fees, the provision of free air travel and the like.

There is, on the other hand, an innocent and acceptable practice of giving gifts, as when diplomats and heads of states exchange gifts.

The test, of course, is whether the giver is merely extending a courtesy of friendship, or whether the donor has strings attached to his benefaction, whereby he expects to reap some benefit from the donee in the form of an official favour. In the former case, it would be ungracious of the donee to refuse to accept a gesture of pure courtesy, while in the latter the donee must firmly reject the offer.
There is however a "grey" area in which the donor though well intentioned, might place the donee in a position that would give rise to an appearance of impropriety.

The line of demarcation in this regard, is not always easy to be drawn.

(d) **Influence peddling**

This is a notorious form of public misconduct, which goes to undermine the very fabric of a society that strives towards ethical standards.

Again the establishment of an instance of misconduct in this regard may not always be clear.

The relative or friend of a person in an official position has as much right as anyone else to have his claim to preferment considered, and an ethical question arises as to the behaviour of the official so far as concerns any attempt to influence the appointors, and secondly, the appointors themselves must demonstrate an ethical approach to the appointment.

Ethical standards come into play, therefore, both as to the deportment of the official concerned vis a vis the application, and the behaviour of those concerned in assessing the claims of the applicant. The appointors must demonstrate the ability to apply an objective mind that is swayed neither by the fear of not making an appointment, (which would displease the official) nor of making an appointment, which might be perceived as showing favour to the applicant.

(e) **Lobbying**

There can be no objection to anyone, in a general way, seeking to present the facts of his case in a favourable light to an official who is called upon to decide upon those facts.

Ethical standards may come into play, however, when an applicant tries to steal a march on his competitors, as for instance, in the tendering procedure, an applicant seeks to lobby an official after a presentation has been made by all the competitors.
TOPIC NO.4

(A) **Should there be a restriction placed upon Persons in Public Life in the matters of:**

(a) Engaging in any other employment while holding public office?

(b) Engaging in such employment after the termination of public office as would give them an unfair advantage over their competitors in the open market by virtue of information and expertise gained while in public office.

The integrity in Public Life Act, 1987 is silent on both points, but so far as concerns (a) above, a convention exists so far as concerns Ministers of Government, that on their assumption of office, what is expected of them is that they should discontinue their former occupations, so far as such activities would interfere with their duties of office.

A grave issue of a conflict of interest would, of course, arise, where there are areas of activity in the member's former business or professional activities, which might impinge upon his governmental functions.

Should the decision in this matter be left for Executive Discretion or should the law place this decision in the hands of the Integrity Commission?

The question whether a member should be allowed to continue to ply his trade or profession is, of course, a very important one, to the member having regard to the uncertainty of political office. A person aspiring for political honours might feel greater confidence in offering himself for political advancement if he were secure in the knowledge that on assuming political office, he could have his former employment to fall back upon when he demitted office. The curtailment of such opportunities for other employment should therefore be weighed carefully by maintaining a proper balance between the member's interest, and the interests of State.

One device whereby some compromise can be reached in this conflict of interests, lies in the provisions relating to the Blind Trusts mentioned above.
The view of the Commission on this issue is that while Executive Discretion will undoubtedly continue to be exercised by way of some form of monitoring of the behaviour of the persons concerned, yet it is felt that the law should lay down the appropriate criteria of behaviour for all such persons and place the monitoring of their behaviour, in the final analysis, within the powers of the Integrity Commission.

(B) **Employment after termination of office**

Similar comments must apply to the persons who have left office. Such persons should be free to resume any other form of employment.

In the cases, however, of governmental business-

(a) offered to a former member of government; or

(b) negotiated for by such member on his own behalf; or

(c) on behalf of some other person;

a question of favouritism can arise in the public mind, when such a transaction takes place within a short period of time of the member’s demission of office.

How such a matter might be dealt with would be to allow a period of time to elapse - say a year - before such persons can be allowed to enter into government contracts.

We consider that the Integrity Commission should also monitor such activities.

**TOPIC NO. 5**

**How should Investigations under Integrity Legislation be carried out?**

One of the serious concerns expressed about the Integrity in Public Life Act is the absence of any powers which would monitor the establishment of the requisite standard of integrity in public life.
Our Commission has been at pains to point out that there should be a clear distinction drawn between:

(a) those instances of corruption which now attract the sanctions of the Criminal Law; and

(b) those instances of unethical conduct which do not.

We wish to emphasize the view we have expressed above, that in the case of:

(a) criminal conduct, we consider that the control of such conduct should remain with the established law enforcement agencies; while in the case of

(b) unethical conduct, legislation should now be put in place to regulate the conduct of all persons in public life, in the public interest.

We perceive, however, that the functions of the two agencies may, and indeed should impinge upon each other from time to time, viz.:-

(a) in the case of a criminal prosecution, the Return filed with the Commission may (under the Act as it now stands) be admitted into evidence on the trial of certain court proceedings on the order of the judge; or

(b) we consider that for the proper discharge of the duties of the Integrity Commission in the conduct of enquiries, the Commission should be authorized to require any public official to make available to the Commission for the purposes of such enquiry, all information that has come into his possession.

A question arises as to how the Integrity Commission should carry out its investigations-

(a) Should the Integrity Commission have its own investigation unit?

(b) Should the Commission merely rely upon any information supplied to it by any person or agency?; or

(c) Should powers under (a) and (b) be granted to the Commission?
The Commission has approached this matter by attempting to project how the need for an investigation can arise.

First, it should be pointed out that under the existing legislation, the Commission has the power to carry out an investigation by a Tribunal appointed by the President from among its members, and endowed with all the powers of a Commission of Enquiry under the Commissions of Enquiry Act of sections 23 and 24.

To carry out such an enquiry effectively, however, the Tribunal must be seised of all the relevant information in the matter; which it can only have after the matter has been thoroughly investigated, and information has become available as to who are the persons who can testify in the matter. The assistance of all those persons or agencies who might have investigated the matter then becomes crucial.

Should the Commission then be provided with the necessary investigating officers to make its own independent enquiries?

The Commission has answered this question by enquiring whether the volume and scope of any projected investigations would warrant the establishment of virtually another administrative unit of government within the Commission with its concomitant burden on the taxpayer.

Looking at the matter as it now stands, we have answered that question in the negative.

**SPECIAL INVESTIGATOR**

However, in order to carry out any proper investigation under the provisions of the Act, it should be apparent that this can be effected only if some provision is made for the proper investigation into all the relevant facts. The Act now makes no provision in this regard.

What our Commission recommends is that in addition to making it mandatory for all existing investigating agencies to disclose to the Commission all information relative to any infringement of the Act, provision should also be made for the appointment 'ad hoc' of a Special Investigator if and when the occasion arises.

We envision such a person to be a senior legal officer, who would be given the same powers of instigating and carrying out an investigation as the Commissioner of Police except that he would not have any power to carry out or order an arrest.
The investigator should have the power to requisition the assistance of personnel from the Police Department, the Customs or any other government department to enable him to carry out his functions.

His appointment should be made by special commission from the President acting on the advice of the Integrity Commission and the terms of reference of his appointment should be spelled out in the instrument of commission.

His investigations should be carried out under the direction of the Commission, to which he should submit his findings.

The basis upon which the Commission should act in its advice to the President for this appointment to be made, should be

"Where the Commission considers it necessary or expedient to enquire whether any breach of the Integrity in Public Life Act has been committed."

and Section 23 of the Act should be expanded in order to enable an enquiry to be carried out by a Tribunal appointed by the President. The present scope of Section 23 is

"Where the Commission considers it necessary or expedient to enquire into the accuracy or fulness of a declaration filed with it."

It is envisaged that the appointment of a Special Investigator would normally precede the appointment of a Tribunal under section 23, and that the findings of such investigation would be used for the purpose of the enquiry. The Investigator should then be entrusted with the task of presenting the evidence before the Tribunal.

**TOPIC NO. 6**

**Should there be a Supervisory Jurisdiction in the Integrity Commission? If so**

(a) What range of persons should be caught?

(b) How should this jurisdiction be exercised?
ADVISORY OPINION SERVICE

It is a truism to say that unless legislation can be enforced, the best provisions of law would remain dead letters. In our Report to Parliament for 1980 we recommended that:

"A person in public life should be able to seek an opinion from the Commission as to his own proposed conduct whether a breach of Act has been committed by some other person."

In the carrying out of this function, the role of the Commission would be not only that of "Watch Dog" to ensure the due observance of the law but also that of Counsellor and Guide to attempt to establish and foster proper ethical standards.

In our summary of the Commission’s role under its Supervisory Jurisdiction we said (in the 1990 Report) that it lay in:

- "giving opinions and ordering corrective action for any breach of the law;
- reporting infractions of the law to the appropriate authorities; and
- providing information on and promoting an understanding of ethical standards, so that by counselling and admonition, standards of integrity can be maintained."

ORDERS OF THE INTEGRITY COMMISSION

We reproduce here our recommendation in our 1990 Report as follows:

"We consider that after an enquiry has been carried out into allegations of Misconduct in Public Office, this Commission should be given powers to make the following orders-

(a) that assets be placed in a Blind Trust; or

(b) be placed with the Public Trustee until the person has ceased to be a person in public life; or

(c) be disposed of; or
(c) that assets be forfeited to the State; or

(e) otherwise dealt with.

Such orders should be registrable by the Director of Public Prosecutions as orders of the High Court and be capable of enforcement under the Rules of the Supreme Court.

ORDERS OF THE PARLIAMENT OR OTHER BODIES

In our 1990 Report we recommended as follows:-

"We recommended that Parliament and the other bodies should be empowered to make the following orders on the recommendation of the Integrity Commission-

(a) That the member be reprimanded;
(b) That a member be required to vacate his office;
(c) That a member's seat be declared vacant for gross misconduct in public affairs, as defined by the Act."

In our 1991 Report we added the following:-

"With regard to the declaration at (c) where a member's seat is declared vacant, we would add, however, that when this drastic sanction is applied, the member concerned should have the right to offer himself at the polls again, thus making the electorate the final arbiter as to his qualification to hold office."

SCOPE AND EXTENT OF THE SUPERVISORY JURISDICTION OF THE INTEGRITY COMMISSION

In our Reports to Parliament, we have postulated a role that can be performed by the Commission that might extend beyond the limits of "persons in public life" as defined in the Act.

There is a public perception that the role of the Commission should be to pronounce upon ethical standards generally, but this is clearly too wide an undertaking.
So far as concerns all government employees, however, we take the view that the establishment of a consistent body of opinion on ethical standards will be established if those principles can be pronounced upon by having due regard to the doctrine of Precedent.

In this regard, we have recommended that a reference can be made by the Commission concerned, or the State Enterprise for the Opinion of the Commission.

There would always remain finally, recourse to the High Court by way of Judicial Review.

**TOPIC NO.7**

**Should there be independent control and supervision over matters falling under the Representation of the People Act?**

The history of the election laws in Britain stems from the sweeping reforms of the nineteenth century in which parliament sought to remedy the excesses and corruption that were rife in the society of that age, by removing the control of elections from Parliament, and placing it in the Courts of Law; and this legislation is the genesis of our Representation of the Peoples Act.

What that enactment shows is that the Act proscribes a number of activities concerning elections as being contrary to law, in such matters as

- Election Expenses
- Advertising
- the Conduct of Elections

and numerous other activities declared to be corrupt practice, but this legislation is silent, as to the existence of any mechanism whereby these provisions of law can be scrutinized and enforced by an impartial body.

By contrast with the North American practice, the whole gamut of governmental activities, whether in the legislative chambers themselves, or in the offices of government employees, or in the election campaigns, or in lobbying activities, come under the strict scrutiny and control of impartial Ethics Committees.
What our Symposium will need to look at, therefore, is not merely to the substance of our electoral laws, but also whether additional measures need to be put in place to ensure standards of ethical behaviour and compliance with those laws on the part of the persons concerned.

The view of the Integrity Commission is that the Elections and Boundaries Commission should be given powers to scrutinize activities under this law and to have power (similar to that exercised in North America) to enforce compliance with those laws.

SUMMARY OF RECOMMENDATIONS

Ethics Legislation

Legislation should be enacted setting out comprehensively the following:

(a) **The Law as it applies to all persons in our society concerning corrupt practices in all its forms.**

This law should establish adequate procedures for the detection and prosecution of such offences by the established law enforcement agencies.

(b) **A Code of Ethics that would establish the norms of behaviour applicable to all Government Servants, and employees of Local Government Bodies and personnel of Statutory Boards.**

This Code should be enforceable by various Commissions established under the Constitution, i.e.

The Judicial and Legal Service  
Public Service  
Statutory Authorities Service  
Police Service  
Teaching Service.

The sanctions for a breach of this Code would be in the exercise of the disciplinary powers granted to these Commissions.
(c) **A Code of Ethics applicable to Persons in Public Life, i.e.**

All persons elected or appointed to Public office, who exercise the power of policy and decision making over the affairs of the public, i.e.

- Members of the House of Representatives
- Ministers of Government
- Parliamentary Secretaries
- Members of the Tobago House of Assembly
- Members of all Local Government Bodies
- Statutory Bodies
- Advisers to Ministers other than public officers.

(d) **Powers exercisable by the Integrity Commission**

In addition to its existing powers of receiving declarations of the income, asset and liabilities of persons in public life, this Commission should exercise a Supervisory Jurisdiction over such persons so as to ensure compliance with the established Code of Ethics. This it should do by the submission of written Opinions given at the instance of the person concerned himself (when he would receive a confidential Opinion) or at the instance of the body concerned, or a member of the public (when an Opinion would be rendered to the body concerned with the recommendation of the Commission).

The Opinion Service of the Commission should be exercised in a similar way with respect to applications concerning all aspects of the Ethics legislation generally so far as they affect any persons within its purview.

(e) **Ethical Standards under the Representation of the Peoples Act**

should now be re-examined and up-dated in the light of modern experience and practice, and powers of control and enforcement should be given to the Elections and Boundaries Commission.
1. Introduction.

This paper focuses on those aspects of the Federal ethics laws and regulations of the United States that have relevance to the various topics that will be considered at the Integrity Symposium. Before discussion the specific topics, however, some general observations regarding the system of ethics laws and regulations in the United States may be useful.

An initial point to be noted is that, due to the Federal governmental structure of the United States, there are distinct systems of ethics laws and regulations at the Federal, State and local government levels. At the Federal level, there are laws and regulations that apply in such areas as conflict of interest, financial disclosure, regulation of the conduct of officers and employees, regulation of elections, and registration and oversight of lobbying activities. At the same time, each of the States has its own statutes and regulations, covering many or all of these areas, that apply within its jurisdiction. In addition, many local government bodies have regulations, ordinances or policies that address issues of public integrity at the local government level.

A second point to be noted is that at the Federal level, separate legal requirements apply to, and are independently administered by, each of the three branches of the Federal Government. In the legislative branch, for example, each of the Houses of the Congress has established its own rules for Members and staff which are administered by its own committees. Ethics matters fall within the scope of the Select Committee on Ethics in the Senate and the Committee on Standards of Conduct in the House of Representatives. Similarly, ethics matters such as financial disclosure within the judicial branch are administered under the Judicial Conference of the United States. In the executive branch the Office of Government Ethics (OGE) is responsible for providing overall direction for the individually administered ethics programs of the departments and agencies.

A third point to be noted is that within the executive branch, there is no single office or agency that has jurisdiction for the entire array of laws and regulations that relate to the broad subject of government integrity.
For example, political activity by Federal employees and whistle blowing are within the sphere of the Office of Special Counsel. Investigation of fraud, waste and mismanagement is generally conducted by an agency Inspector General pursuant to the authority of the Inspector General Act of 1978. Criminal prosecution and enforcement are the responsibilities of Federal law enforcement agencies, most notably the U.S. Department of Justice and the Offices of the United States Attorneys. Administrative sanctions against Federal employees for ethical violations are determined by the individual agencies with appeals of adverse actions to the Merit Systems Protection Board.

Within the executive branch, the Office of Government Ethics is responsible for providing leadership and direction of department and agency ethics programs. OGE develops rules and regulations pertaining to standards of conduct, public and confidential financial disclosure of executive branch officials, and the identification and resolution of conflicts of interest. OGE reviews executive branch public financial disclosure reports of Senate-confirmed Presidential appointees to determine compliance with applicable laws and regulations and, where appropriate, it recommends corrective action. OGE conducts periodic reviews of the ethics programs of executive agencies, including their compliance with the financial disclosure requirements of the Ethics in Government Act of 1978. OGE provides guidance on and promotes understanding of ethical standards in executive agencies through a program of Government ethics advice, education and training. OGE may order corrective action on the part of agencies and employees that the Director of the Office deems necessary, including orders to establish or modify an agency's ethics program. Finally, OGE comments on proposed ethics-related legislation, evaluates the effectiveness of conflict of interest regulations and policies of other executive branch agencies, and recommends improvements where appropriate.

11. Symposium Topics.

The following discussion keys on the topics to be considered at the symposium and provides a brief description of the provision of U.S. law that is relevant in each particular area. The topics proposed for the symposium are broad and comprehensive and address a wide range of government integrity issues. Although some matters outside the jurisdiction of the Office of Government Ethics are mentioned for general background purposes, the primary focus of this paper is on subject matter that is within OGE's sphere of responsibility.

Under this topic, the symposium proposes to explore a number of issues related to a system of public financial disclosure by government officials. Since the passage of the Ethics in Government Act of 1978, the U.S. Federal Government has had in place a system of public financial disclosure. Some key features of this system are its broad scope, its use of blind trusts, and the availability to the public of financial disclosure reports.

1. Coverage. The first question raised under this topic concerns coverage, namely which government officers and employees should be subject to the obligation to make a public disclosure of their financial interests.

Under U.S. law, there is broad coverage of high-level officers and employees in all three branches of government. Section 101(f) of the Ethics in Government Act of 1978, 5 U.S.C. app. §101(f), lists 12 categories of officials or employees who are subject to the public disclosure requirements: (1) the President; (2) the Vice President; (3) executive branch employees classified above GS-15; including the Senior Executive Service and certain high-ranking members of the uniformed service; (4) administrative law judges; (5) employees in confidential or policy-making positions who are not covered by category 3; (6) certain high-ranking postal officials and employees; (7) the Director of the Office of Government Ethics and each designated agency ethics official; (8) civilian employees in the Executive Office of the President who hold a commission of appointment from the President and who are not covered by category 3; (9) Members of Congress; (10) certain officers and employees of the Congress; (11) certain judicial officers; and (12) certain judicial employees.

Public disclosure applies not only to elected officials and political appointees but also to senior career officials and employees, as for example, the members of the Senior Executive Service in the executive branch. It could include technical personnel, as for example, scientists in a position in the executive branch classified at the above the GS-15 level. Consultants and advisors could also be subject to public financial disclosure. Thus, some persons who might not be considered to be directly involved as policy decision makers are nevertheless subject to the public disclosure system.
Within the executive branch there is also a system of confidential financial disclosure which reaches other categories of employees. In the U.S. system, the Federal disclosure law does not apply to State, municipal or other local government officials.

2. **Blind Trusts.** Another question raised under this topic concerns the use of a blind trust as a means of avoiding conflicts of interest.

Under U.S. law, the use of a blind trust is available as a remedy for a potential conflict of interest. Section 102(f) of the Ethics in Government Act of 1987, 5 U.S.C. app. §102(f), contains statutory provisions that are applicable to qualified blind trusts. When a trust qualifies as a truly blind trust, an individual is not required to report the holdings of the trust. A trust is considered to be "blind" only with regard to those trust assets about which no interested party has knowledge. See 5 C.F.R. §2634.401(a)(i)(II). A qualified blind trust is one certified by OGE that includes certain required provisions in the trust instrument and that has an independent trustee.

However, there is no requirement, per se, that a person utilize a blind trust as a means of resolving potential conflicts of interest. The blind trust is one of a number of possible remedies including divestiture, waiver, and recusal. As a practical matter, however, there may be cases where individuals with holdings of a certain type or such a magnitude which would so frequently present potential financial conflicts that the most practical means of avoiding a conflict would be the creation of a blind trust.

3. **Public disclosure.** A third question raised under this topic concerns whether financial reports should be made generally available to the public.

U.S. law provides for complete public disclosure. Section 105(a) of the Ethics in Government Act of 1978, 5 U.S.C. app. §105(a) provides that each report filed under the Act shall be made available to the public. A requester does not have to have any particular purpose for requesting a report. There are, however, certain safeguards that apply. A requester must complete a written application. In addition, it is unlawful to obtain or use a report for commercial purposes, to establish a credit rating, to solicit contributions, or for any unlawful purpose.

The symposium proposes to explore the question of whether there should be standards of ethical conduct that apply to all government employees. Two categories of offenses are considered. The first is bribery and public corruption which was a criminal offense under the common law. A second area of concern is those offenses that may not rise to the level of a criminal violation.

Under U.S. law, bribery and public corruption are covered by 18 U.S.C. § 201 of the Federal criminal code. The administration and enforcement of this statutory provision is through Federal criminal law enforcement authorities. Noncriminal conduct that raises ethical concerns is regulated by statute, through Executive Orders and by regulations issued by the Office of Government Ethics. The Office of Government Ethics just recently promulgated regulations that govern employee conduct in a number of areas including gifts from outside sources and between employees, conflicting financial interests, impartiality in performing official duties, seeking other employment, misuse of position, and outside activities. See 5 C.F.R. Part 2635 - Standards of Ethical Conduct for Employees of the Executive Branch.

C. Topic No. 3. Other Offenses.

Under this topic, the symposium proposes to explore questions with regard to conflict of interest, trading on confidential information, the acceptance of gifts, misuse of position, and improper lobbying of Government officials.

**Conflict of Interest.** The basic conflict of interest provision under U.S. law is 18 U.S.C. § 208. Section 208 prohibits Federal employees in the executive branch form participating personally and substantially in an official capacity in any particular matter in which the employee has a financial interest; if the particular matter will have a direct and predictable effect on that interest. The financial interest of a Federal employee’s spouse, minor children, general partner, organization in which the Federal employee is serving as officer, director, trustee, employee and are also imputed to the Federal employee and are therefore disqualifying interests. In addition, the interest of any person or organization with whom the Federal employee is negotiating or has an arrangement concerning prospective employment is also treated as a disqualifying interest of the Federal employee. The disqualification from acting in matters covered under section 208 may be waived under various provisions of 18 Y.S.C. § 208(b).
The question of an appearance of a conflict of interest is dealt with in several ways under the Standards of Conduct which have been issued by OGE. Under the general appearance standard contained in 5 C.F.R S 2635.101(b) (14), employees are directed to avoid any actions creating the appearance that they are violating the law or the ethics standards set forth in the rule. An appearance of conflict would be judged "from the perspective of a reasonable person with knowledge of the relevant facts." OGE has also promulgated regulations that are intended to ensure that employees take appropriate steps to avoid an appearance of loss of impartiality in the performance of official duties. These regulations, which appear in 5 C.F.R SS 2635.501-503, establish procedures for dealing with such situations.

2. Trading on Confidential Information. Under the rubric of "insider trading" the symposium proposes to explore the question of the use of nonpublic confidential government information to benefit a government employee's own personal financial interest. The Standards of Conduct promulgated by the Office of Government Ethics contains several provisions that address this concern. A general principle of public service as stated in the regulations is that employees may not use public office for private gain. 5 C.F.R. S 2635.101(b) (7). The specific question of misuse of confidential government information is addressed in 5 C.F.R. S 12635.703 which states that "[a]n employee shall not engage in a financial transaction using nonpublic information, nor allow the improper use of nonpublic information to further his own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure." The regulation also defines nonpublic information as "information that the employee gains by reason of Federal employment and that he knows or reasonably should know has not been made available to the general public."

3. Acceptance of Gifts. The symposium will consider the question of gifts. The symposium memorandum notes that gifts may range from actual bribery where the gift is given in return for some official act to gifts of courtesy. The memorandum also notes the existence of a "grey" area where even a well-intentioned gift might create an improper appearance for the recipient.

As noted above, U.S. law treats bribery as a criminal offense under 18 U.S.C. § 201. In the case of gifts that do not constitute bribery, a gift to an employee of the executive branch would be analyzed under gift rules promulgated by this Office. The general rule on gifts from outside sources is that a Federal employee of the executive branch may not solicit or accept a gift from a prohibited source or
given because of the employee’s official position. 5 C.F.R. S2635.202(a). The gifts rules exclude certain items from the definition of gift and provide for a number of exceptions from the prohibition. One such exception is for unsolicited gifts of $20 or less. This exception would allow for certain courtesy items. The $20 exception is subject to a $50 limit on gifts from any one source in a single year.

4. **Misuse of Position.** The symposium proposes to consider the question of the use of official position to benefit a relative or friend of an official. The specific example posed is that of friends or relatives who are seeking a government appointment.

Under U.S. law, a number of statutes and regulations could be implicated in such situations. U.S. law, for example, would prohibit an official or employee from representing anyone before a Federal agency in an attempt to obtain a benefit for that person. Certain exceptions may be approved to act on behalf of family members or an estate. But an employee could not, for example, represent a friend in processing a claim for medical benefits before a Federal agency or make representations on a friend’s behalf in an immigration matter. In addition, the general prohibition on using public office for private gain would come into play since the rule prohibits such action either for the employee's own private gain or the private gain of another.

5. **Improper Lobbying.** The symposium proposes to discuss the question of efforts to influence the government on one’s own behalf. The specific issue is contacts with officials out side of normal procedures.

Under U.S. law, in adjudicative proceedings before executive agencies, there are provisions of the Administrative Procedure Act that regulate so-called ex parte contacts with decision-making officials. 5 U.S.C. S 554(d). Adversaries in such proceedings or their representatives are prohibited from privately communicating with decision makers concerning the merits of pending adversary proceedings.

D. **Topic No. 4. Outside Employment and Post-employment Concerns.**

Under this topic, the symposium proposes to explore questions relating to outside employment and post-employment concerns.
I. **Outside Employment.** The symposium proposes to discuss ethical issues and concerns that may be raised whenever a government official continues to practice his or her former occupation or otherwise to engage in outside employment while holding public office. The symposium notes the potential for conflict when an official acts in an official capacity in a matter that could have an effect upon the official's private business or professional interests.

Under U.S. law, there are a number of statutory and regulatory restrictions that would apply and regulate an executive branch official's involvement in outside employment activities. In the first instance, there is the basic criminal conflict of interest provision in 18 U.S.C. § 208 which prohibits an executive branch employee from participating personally and substantially in any particular matter that would affect that employee's financial interest. A financial interest would include an employee's outside business or profession. The interests of business partners would also be imputed to the employee thereby disqualifying the employee from acting on such matters.

It should be noted that section 208 does not prohibit a government employee from engaging in outside business, professional or employment activities while holding a government position. Rather the statute disqualifies the individual from taking official action that would affect that private financial interest.

Other provisions of the criminal code would also have potential application to outside activities. For example, U.S. law prohibits employees of the executive branch from receiving compensation derived from representations before the government. 18 U.S.C. § 203. This would impact on the employee's outside private business activity whenever it would be involved in representations before the Government. Thus, an employee could not engage in contract negotiations for a government contract on behalf of his private company or business, because the receipt of compensation derived from such representations would be prohibited by section 203. Another section of the criminal code, 18 U.S.C. § 205, prohibits an employee from engaging in any representations before the government on behalf of private interests whether or not compensation was received.

In addition, the standards of conduct applicable to employees of the executive branch have a number of detailed provisions which would apply to outside activities, including outside employment. See 5 C.F.R. §§ 2635.801-809. A Presidential appointee to fulltime noncareer position may not receive any
outside earned income for outside employment or any other outside activity performed during that Presidential appointment. Finally, there may be agency specific statutes or regulations that could affect whether an employee could engage in outside employment and subject the employee to particular terms and conditions.

2. **Post-employment.** The symposium proposes to address issues involving employment after termination of public office or position. A specific issue is whether there should be some mechanism to protect against undue influence by former government officials when they deal with the government.

Under U.S. law, there is no prohibition that would restrict employment with any particular employer once a government employee leaves the government, with the exception of certain special statutory requirements that apply in the defence sector. U.S. post-employment statutes do, however, restrict the matters on which a person may act after they have left government service. Former government employees are permanently barred from “switching sides”, i.e., representing anyone in a particular matter involving specific parties in which the United States has a direct and substantial interest and in which the former employee participated personally and substantially as a government official. 18 U.S.C. § 297(a) (1). A former employee is also barred for two years in the case of particular matters involving specific parties in which the United States has a direct and substantial interest and which was pending under the former employee’s official responsibility within a period of one year of termination of government service.

U.S. law also addresses the issue of undue influence by senior level executive branch officials upon their former agency. For a period of one year, certain senior officials are barred from making any contact with their former agency with the intent to influence any officer or employee of the agency in connection with any matter on which the person seeks official action. 18 U.S.C. § 207(c). This so-called “one-year cooling-off period” allows for sufficient time for both the agency and the former employee to adjust to their new roles and relationships and helps to dispel appearances of favoritism or undue influence.
In addition to the permanent ban, the two-year bar, and the one-year cooling-off period, there are a number of other post-employment restrictions that apply to executive branch officials in more specialized circumstances such as trade or treaty negotiations or where the individuals are very senior officials, such as members of the cabinet. Finally, U.S. post-employment law, does have a number of restrictions that apply to Members of Congress and officers and employees of the legislative branch. 18 U.S.C. § 207(e).

The Office of Government Ethics has issued regulations that implement the post-employment statutes. However, in keeping with the decentralized system of administration of the ethics program of the executive branch, it is the individual agencies and departments that, in the first instance, interpret and advise on post-employment questions. The agencies are also responsible for administrative enforcement of post-employment rules by holding proceedings and imposing sanctions.

E. Topic No. 5. Investigations.

Under this topic the symposium proposes to explore questions relating to the authority to carry out investigations.

Under U.S. law, the responsibility for the investigation and prosecution of allegations of criminal violations rests with federal criminal law enforcement authorities, notably the Department of Justice. The Inspector General of an agency or department also may conduct criminal investigations in coordination with the Department of Justice.

In the case of noncriminal matters within the executive branch, it is generally the agency that will conduct an inquiry into allegations of misconduct and impose administrative penalties if such are found to be warranted. The Inspector General of an agency would again often take the lead in conducting an investigation of alleged misconduct by an agency official or employee.

Under Title IV of the Ethics in Government Act of 1978, the Office of Government Ethics has certain authority to take corrective action. OGE has issued rules implementing this authority.
F. **Topic No. 6. Supervisory Jurisdiction.**

Under this topic, the symposium proposes to explore questions relating to the administration of an ethics program by an ethics commission, in this case the Integrity Commission.

The Office of Government Ethics does have authority in the executive branch that is similar to what is referred to as the supervisory jurisdiction of the Integrity Commission. OGE, for example, may issue advisory opinions to executive branch employees. However, as noted above, the system in the executive branch is decentralized with primary responsibility for advice and guidance of individual employees resting with agency ethics officials.

Similarly, OGE has authority to order corrective action with respect to agency ethics programs or the conduct of individual employees. In the case of possible violations of criminal statutes, OGE, usually in conjunction with the particular agency, will make a referral of the matter to the Department of Justice.

Finally, OGE has issued standards of conduct that apply uniformly throughout the executive branch and it maintains an active education and training program to promote a better understanding of ethics requirements.

G. **Topic No. 7. Elections.**

Under this topic, the symposium proposes to explore proposals in the areas of campaigns for public office and elections.

In the United States, the Federal election campaign process is subject to regulation by the Federal Election Commission ("FEC"). The FEC is an independent agency that administers and enforces the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431 et seq., and the Revenue Act, 26 U.S.C. § 1 et seq. The FEC oversees the public financing of Presidential elections, provides for public disclosure of campaign finance activities, and administers the law with respect to limits and prohibitions on contributions and expenditures made to influence Federal elections, i.e., the Presidency, the U.S. Senate, and the U.S. House of Representatives. In addition, at the State level, each of the States has enacted its own state election laws.
III. Conclusion.

One of the major themes of modern ethics laws and regulations in the United States has been the principle of disclosure as a mechanism for dealing with potential conflicts of interest and ensuring the integrity of governmental processes. This principle is embodied in the Ethics in Government Act of 1978 which requires public financial disclosure by high-ranking government officials and employees.

Disclosure is not an end in itself but is a tool for identifying a potential conflict of interest and applying an appropriate remedy. A confidential financial disclosure system also embodies this principle in the form of disclosure of financial interests to the employee's agency although not to the general public.

A second theme of recent U.S. ethics laws has been the establishment of parameters on the post-employment activities of former government officials. One purpose of post-employment laws is to prevent former officials from exerting undue influence on their former agencies. More recently, as for example in the Ethics Reform Act of 1989, there has been a concern with protecting sensitive government information such as trade or treaty information. Post-employment legislation requires finding the right balance between a level of restrictions needed to protect government processes and excessive restrictions which could adversely affect the ability to attract persons to both career and noncareer service.

A third theme of current U.S. ethics regulation has been the establishment of a uniform set of standards of conduct for executive branch officials and employees. Although a model set of standards of conduct for the executive branch had been in existence since the 1960's pursuant to an Executive Order, a single comprehensive set of standards applicable to all employees of the executive branch only became effective in 1993. The goal of these regulations, developed and issued by the Office of Government Ethics pursuant to Executive Order, is to ensure that the highest ethical standards will be observed by executive branch employees in carrying out official duties within a regulatory framework that is objective, reasonable and enforceable.
CORRUPTION - THE ABUSE OF PUBLIC OFFICE FOR PERSONAL BENEFIT

Paper by Dr. Peter Eigen
Transparency International, Germany

When men are corrupt, laws are broken - Benjamin Disraeli

Introduction

1. It is an unfortunate but inescapable fact of life that corruption appears to be endemic in human nature. Although we may wish to think otherwise, experience suggests that Henry Ward Beecher captured the human condition when he said "there is no man that lives that can't be broken down, provided it is the right temptation, put in the right spot."  

2. Oscar Wilde overstates it even more stylishly: "I can resist anything except temptation."  

3. The evidence is all around us. To the extent that systems permit - be they town planning procedures in Britain, government contracts in Italy or Spain, or lucrative development contracts in Nigeria or Kenya - those involved, in both the public and the private sector can find Oscar Wilde's temptation irresistible. Societies, both developed and developing, are as corrupt as their institutions allow.

4. This is, of course, not to suggest that there are no public servants and private sector individuals whose integrity is beyond reproach. But equally it would be absurd to deny the evidence of our age: owing to a combination of susceptibilities and opportunities, levels of corruption are at least as high as they have ever been.

1. For the purposes of this paper the expression "corruption" is taken to mean the misuse of public office for private profit.

2. Henry Ward Beecher, "Proverbs from Plymouth Pulpit"

3. Oscar Wilde, "Lady Windermere's Fan."
5. The consequences of corruption are devastating enough in developed countries, where institutions and even whole economies have been undermined. In developing countries the position is far worse. There, what had previously concerned a relatively small number of countries has spread, like a cancer, to become a major international problem. In developing countries during the 1980's, large-scale corruption in major government-influenced contracts became the rule, rather than the exception to the extent that it has become one of the most damaging factors in third world development. Signs are that the situation in the second world is becoming even worse.

6. Although the problem of corruption is broadly based, nowhere is it more damaging than in international business transactions. It is a readily demonstrable fact that too often decisions are being taken to proceed with ill-conceived projects, and that the wrong plant is not only being purchased but at inflated prices. Environmental and other crucial considerations are being ignored in the pursuit of undertakings that will make those in public office rich, and suppliers in the North profitable. Many of the people of the South and East, for whom aid is intended, are left watching their leaders plunder public funds and conspiring with international companies and development agencies in the North - a spectacle supported by some governments in the North, who encourage corrupt practices by permitting bribes to be deductible for income tax purposes.

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4. A recent report from Swiss banking sources estimated that the amount being held in Swiss banks on behalf of African leaders alone is in excess of $20 billion.

5. A recent study of the problem by George Moody-Stuart, a recently retired senior executive in an international corporation, suggests that when it comes to bribes, the arithmetic is simple, although the amounts will vary from country to country -

- 5% of $200,000 will be of interest to a senior official below the top rank;
- 5% of $2 million is the top official's area;
- 5% of $20 million is real money for a minister and key staff;
- 5% of $200 million justifies the serious attention of the head of state.

He adds that "Five percent used to be typical, but recently figures like 10 to 15 percent are often heard."
As a consequence, the modus operandi for the corruption of public officials has ceased to be a topic spoken of only in whispers and by dubious characters: it is now openly discussed by professionals with seemingly impeccable credentials as part and parcel of everyday business life. But at the same time the taboo has now been broken. Corruption is at last out in the open as a topic of legitimate professional analysis and discussion.

It is important to stress that the crux of the problem does not simply lie in the countries of the South, where civil servants in particular may be vastly underpaid and so particularly susceptible to temptation. It lies at least equally—and arguably even more so—with those in the rich countries who offer the bribes, with the corruptors who corrupt those who might well otherwise remain honest. It should also be noted that whereas a number of countries of the South and East are seeking to redress the problem, overall (if with some significant exceptions) the attitudes of those in the North is distinguished by an air of complacency. In this process the real victims are among the world’s most poor—those least able to afford it.

**Transparency International**

It was as a response to this growth in corruption in international business transactions and the realisation that the true victims were not business integrity but the world’s most poor, that in recent months a diverse group of individuals from the North, South and East, of national and multi-national aid agencies, of non-governmental organisations, private sector individuals and academics have come together to forge a coalition in the belief that effective action is possible to counter this plague.

The coalition, formalised as “Transparency International” (TI), has as its sole purpose the promotion of accountability and transparency in international transactions.

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6. Senior company executives generally defend themselves in one of three ways: by saying that corruption in the third world is simply a "fact of life"; by suggesting that bribes are no more than a contribution to the economy of a developing country by bringing income levels of senior people up to reasonable levels; or by claiming, not infrequently in the face of proof to the contrary, that their companies have adequate internal procedures to ensure that their employees and agents do not breach the laws of the countries where they are doing business.
A major concern in this regard is to strengthen processes of good governance and so enhance the effectiveness of resource flows to developing countries and to those of Eastern Europe.

11. Those behind the TI initiative recognised that the growth of democratic and accountable government in the South and East has created unprecedented opportunities for the people in those countries to rid themselves of the worst excesses of the past. They also recognised - and particularly members of TI from the South and East - that the dominating position of many of their governments in development programmes and commercial life presented opportunities as well as challenges. Such a government committed to the eradication of large-scale corruption was, with the support of its people, well placed to tackle the problem.

12. To guide its work, TI has developed a set of "Standards of Conduct in International Business Transaction." These reflect generally-accepted standards and the document builds on initiatives undertaken in the past by, among others, the International Chamber of Commerce and at the United Nations. Past efforts have foundered: despite numerous resolutions and agreements on good international business practices, and some self-regulation by businesses, corruption has increased. What distinguishes this particular initiative is its unique "coalition" approach - one which addresses the problem throughout the spectrum.

13. Central to TI's strategy is the recognition that no-one can legislate for the world. Nor can it expect international corporations gratuitously to work under self-imposed handicaps during the evolutionary phase. TI does not expect those committing themselves to the Standards to penalise themselves by giving a competitive edge to the less scrupulous. Rather TI recognises the realities of international commerce and competition. As long as a particular playing-field allows corrupt practices, a company that wishes to do business there may be forced to match the tactics of its rivals. That some already refuse to do business in such countries as a self-denying ordinance is a credit to their integrity, but it effectively leaves the field wide open to those who do not. Thus TI welcomes formal commitment to the Standards on the understanding that other component parts of the strategy must be in place before the Standards start to bite there.
14. The key to achieving the necessary critical mass of adherence lies in the participation in the coalition of particular governments (on both sides of the equation) and their willingness to address the rules by which the game is being played. TI is therefore working with a number of governments and individuals and institutions in their countries to forge national coalitions against corruption. These are seen as leading to a binding consensus between key players in favour of the Standards, and the emergence of these countries as "islands of integrity."

15. Once such a stage has been reached, the discipline of the Standards of Conduct is imposed in certain markets: then, and only then, the non-committed will be the outsiders, not the norm, and the pressure for them to fall into line with the Standards will be considerable. The government of the country in question and the relevant donor aid agencies will all have incentives to support this pressure.

16. Corruption can, of course touch almost every facet of human behaviour. It was to render strategies achievable, that TI has decided in an essentially pragmatic fashion to target what it calls large-scale or "grand" corruption, i.e. not focussing on facilitating payments and small commissions which, although they may well constitute corruption at a petty level, do not by themselves constitute major distortions of the development process. However, this is not to say that TI is neutral on these matters: indeed, strategies to redress the most abusive forms of behaviour will frequently impact on corruption more broadly.

Achieving a national consensus

17. The basis for any successful national strategy lies in the establishment of a public ethos opposed to corruption and supportive of appropriate strategies to combat it. This calls for leadership both on the part of government and of the private sector and a willingness to work in partnership to develop an honest and sustainable environment for international business transactions. It also requires frankness in the analysis of present shortcomings. These shortcomings, it should be noted, may arise from overly-ambitious and unduly cumbersome infrastructure developed in an endeavour to contain the menace, just as others may have their origins in past laissez-faire attitudes.

7. The expression "grand corruption" was coined by George Moody-Stuart, author of a book of the same title.
18. The objective of forging a national coalition is to yield an effective holistic strategy that builds upon the experience of the past, that is sensitive to local conditions, that enjoys broad support and is considered both practical and achievable. At the heart of the strategy should lie the development of a system whose transparency and accountability assure it of public confidence.

19. TI encourages governments, individuals and national institutions to meet, initially informally, to begin the process of coalition and consensus building, and in countries in the North as well as in the South and the East.

20. What the process seeks to end is the apathy that for many years lay behind the Italian proverb: **Public money is like holy water: everyone helps himself to it.**

**Elements of a national strategy**

21. TI is convinced that corruption cannot be addressed effectively if approached in an ad hoc or piece-meal way. It believes that only an holistic approach holds any likelihood of significant success - an approach which examines all relevant facets of a country’s administrative, legal and political infrastructure.

22. Thus, in developing a national strategy it is desirable from the outset that a "total integrity audit" is undertaken of the existing country framework and the adequacy assessed of the measures, if any, adopted in such areas as:

*- disclosures of conflict of interest by decision-makers;

*- disclosures of assets by politicians, senior civil servants and their families and associates;

*- relevant codes of conduct and internal practice adopted by companies competing for public sector contracts;

*- regulations governing the conduct of agents in international transactions involving the public sector;

*- requirements for the reporting of donations to political parties;

*- public procurement procedures;
Paper by Transparency International, Germany

*- local and international accounting and legal practices;

*- the powers and establishment of the Auditor-General, the Attorney-General, and investigative and prosecutorial agencies;

*- appropriateness in this context of the provisions of any Official Secrets or Freedom of Information legislation;

*- the appropriateness in this context of bank secrecy laws;

*- protection of "whistle-blowers";

*- parliamentary and other procedures for taking information into the public domain (including appropriate protection of the privately-owned media where the public interest is at stake);

*- the use made of international inspection and verification arrangements; and

*- mutual legal assistance arrangements for the investigation and prosecution of offences with an international element.

23. TI is in the process of preparing short policy discussion papers on each of the above.

24. The modalities by which such a review is carried out may in some countries be as important as the task itself. Clearly if such a review can involve all interested parties - and be non-party political in character - then the very act of undertaking the assessment can raise public consciousness and create a national coalition opposed to corrupt practices. Such a coalition can be a valuable tool not only designing and implementing reform, but also in monitoring its effectiveness.

25. Also for consideration is how TI’s Standards could most effectively be incorporated into local procedures so that they are built in to public procurement and financing practices. In Ecuador, for example, the government has decided, in consultation with TI, to insist among other things on formal declarations from companies who wish to bid for major public works contracts.
Conclusion

26. Assuring the integrity of public procurement procedures, particularly in the field of international business transactions, is an achievable goal. Its focus is sharp and the rewards apparent. It will yield not only more effective development assistance, but develop a culture of transparency and honesty. It could have wider impact, both by fostering an intolerance of other forms of corruption and by affording legitimate protection to politicians and senior officials of integrity but who may presently be the subject of public suspicion simply because of the offices they hold. It can thus contribute to strengthening democratic institutions per se.

27. However, in the final analysis, a national system must be such as to render detection probable and the consequences damnable. For as Mark Twain observed:

There are several good protections against temptations, but the surest is cowardice. 8

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INTEGRITY AND THE PUBLIC SERVANT

Paper by Michael Almendoz
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Office of the Ombudsman

In the context of this paper, "Public Servant" is meant to include those holders of public office who are appointed by the various Service Commissions. Excluded from this broad definition are the holders of such office as the President, Members of Parliament, Judiciary, Ombudsman, Members of the various Commissions, etc. The Public Servant performs public duties laid down by law and prevailing Government policy and is paid by public funds.

Within recent years, the scope of the Public Service has grown very wide indeed. The modern State - and Trinidad and Tobago is no exception - has become responsible for the provision of a vast network of social services designed to improve the welfare of its citizens - public health, housing, assistance for the sick, education, transport, etc. - as well as the supervision of defence, order and justice and the raising of finance, etc. Such institutions and organizations are largely manned by public servants, it goes without saying. Government has become so pervasive that the average citizen is frequently compelled to deal and interface with the ubiquitous public servant in the course of his day-to-day existence. The citizen is apt to regard the public servant as insensitive, indifferent and arbitrary and such a view is of course, at times justified.

But contrary to popular belief, the Public Servant is not in reality an autocrat armed with awesome powers beyond the reach of the law. He is subject to the law of the land and is not immune from criminal process. (The Prevention of Corruption Act should be of special interest to public servants of errant disposition). His conduct as a public servant is governed by statutory regulations and he is subject to disciplinary proceedings. Under certain conditions, his conduct may attract the attention of the Ombudsman as laid down in the following provisions of the Constitution:-
Section 94(2) of the Constitution empowers the Ombudsman to "investigate complaints of administrative injustice ..... not-withstanding that such complaints raise question as to the integrity or corruption of the public service ..... and (he) may investigate any conditions resulting from or calculated to facilitate or encourage corruption in the public service, but he shall not undertake any investigation into specific charges of corruption against individuals. Section 94(3) enacts that "where in the course of an investigation it appears to the Ombudsman that there is evidence of any corrupt act by any public officer ..... he shall report the matter to the appropriate authority."

Very relevant to the issue of integrity in the public service are Sections 75 and 83 of the Public Service Commissions Regulations dealing with subjects such as Gifts and Rewards, Bribery, Reporting of Criminal Charges, Soliciting the Intention of Ministers, etc.

Despite the laws, regulations and mechanism in place to regulate the conduct of the public servant, a large, and perhaps growing number of citizens are convinced that an acceptable level of integrity - making allowances for the inevitable rogue - has not been achieved. (What constitutes an acceptable level and how such level is measured, are questions that remain to be answered in another forum!)

The writer is not inclined to believe that the public service is riddled with fraud and corruption, but there is obviously room for improvement. There is evidence - sometimes anecdotal, sometimes oblique and sometimes direct - which points to flagrant violations of law and morality by some public servants. However, in the absence of statistical studies, it is difficult to gauge the frequency and scale of such misfeasance.

What then is to be done? It is easier to diagnose the illness than prescribe the remedy. How does the State ensure that its public servants are - and will remain - men and women of integrity. Some call for the introduction of draconian laws. Others observe that the problem is failure to enforce existing legislation on the part of the competent authorities.

Whether man can be made virtuous by Act of Parliament will always be a moot point; but until such time as man is transformed into a new being, the law must remain as a guide and deterrent.
The following proposals are made therefore with a view to ensuring a higher standard of integrity in the Public Service:-

(a) **CODE OF ETHICS**

A Code of Ethics should supplement the Public Service Regulations.

A code would cover such subjects as standards required of public servants in dealing with the citizenry, Insider Trading, etc.

It should come as no shock that senior public servants are sometimes privy to highly confidential information which could be used to their financial advantage.

Further, such public servants can influence the course of certain events to the benefit of selves, family or friends.

Breaches of the code would be reported to the Service Commission for appropriate action. A Code of Ethics should be as comprehensive as possible and designed to deal with all manners of unlawful and unethical behaviour - at all levels - and enforced by the Service Commission.

There are times, when like the Judge, the public servant should disqualify himself from handling or determining certain matters. A comprehensive code would seek to lay down guidelines in this respect.

In this connection, aggrieved members of the public and public servants themselves could seek an advisory opinion as to questions of Integrity from the Integrity Commission.

(b) **DISCIPLINARY PROCEEDINGS**

Disciplinary proceedings against public servants is another area requiring urgent attention. These proceedings are often attended by delay and unnecessary formalities and procedures.

Breaches of discipline should be determined in a reasonable time consistent with the exigencies of justice.

The Service Commissions should continue to be entrusted with the handling of disciplinary proceedings against Public Servants.
(c) **INTRODUCTION OF LEGISLATION**

Should legislation be introduced to deal with such activities that fall under the headings of Insider Trading and Conflict of Interest, etc.?

Perhaps this is the opportunity to review the whole area of Criminal Law - and it is not very extensive - relating to offenses by holders of public office. Such a review would examine these novel - and often subtle forms of dishonesty with a view to classifying them as criminal offenses.

It is however both impractical and undesirable to attach the sanctions of the criminal law to all forms of dishonesty and clearly a Code of Ethics would be more appropriate in suppressing and discouraging minor manifestations of unethical or dishonest conduct.

Also, the temptation to enact legislation which - for whatever reasons - cannot or will not be enforced must be resisted at all costs.

(d) **THE ROLE OF THE INTEGRITY COMMISSION**

In addition to its present functions, what should be the role of the Commission with regard to Public Servants?

The Constitution clearly lays down that in addition to the appointment, transfer and promotion of public servants, disciplinary control is vested in the various Commissions.

The writer can see no advantage in transferring any of the functions of the Service Commission to the Integrity Commission.

In the context of an existing Code of Ethics, the Commission would be in an ideal position to advise recommendations where necessary; such advice and recommendations forming part of the Code of Ethics in much the same way as Case Law forms part of the General Law.
INTEGRITY LEGISLATION FOR TRINIDAD AND TOBAGO

Paper by the Trinidad and Tobago Chamber of Industry and Commerce (INC)

Of all the abuses of influence and power in public life, corruption is the most difficult crime to discover. This is so because of the extent to which secrecy and deception are employed to cover such activities. As a result, admissible evidence is hard to find for prosecution. That is a dilemma of serious proportions that is twofold:

(i) What are the actual offences against the law? and

(ii) What are the procedures by which such offences can be detected and the offenders punished?

Morality in Public affairs is a theme that has been used in Trinidad and Tobago over the years, however, there have been far too many allegations and exposures of the lack of morality in public affairs that the need for integrity legislation is greater today than at any time before.

The McDonnell-Douglas, Sam P. Wallace and Tesoro scandals have revealed to us that corrupt activity does take place in the higher echelons of the state. However, it must also be realised that those scandals were just the tip of the proverbial iceberg. How can the state detect and prevent scandals such as those or any other from recurring and guarantee the punishment of those involved?

In its 1974 report, the Wooding Constitution Commission felt compelled to discuss corruption as an issue for constitutional reform because of the number of people who expressed views to the commission that they felt that persons holding high public office were involved in such activities. Paragraphs 235 and 240 of the Wooding Commission Report are instructive in this regard:

"235. One of the root causes of the growing lack of faith in the conventional political process is the widespread belief that corruption is rife among those who hold high political office. No proof has been forthcoming of any acts of corruption, but we agree that suspicions have not been unreasonably aroused. Such suspicions should as far as possible be removed if public service is to be preserved as an honourable career for talented citizens."
"240. There is no doubt that the temptations which beset politicians today all over the world are powerful especially in developing countries. There is no need to plunder the treasury. Persons seeking concessions and favours are often ready to pay for them."

In order to deal with these problems, the commission recommended the creation of an Integrity Commission which would require various public officials to make declarations of their assets and liabilities to this commission. The Government of the day accepted this recommendation of the Wooding Commission and included provisions for an Integrity Commission in the Republican Constitution of 1976.

However, it was only the skeleton that was placed in the constitution and the details of operation were to be prescribed in subsequent enabling legislation which had to be enacted by Parliament. It was not until eleven years later in 1987 that such legislation was passed, although an attempt had been made in 1986 but was blocked in the Senate.

The persons specified in the constitution to make declarations in writing of their assets, liabilities and income to the Integrity Commission are:

(a) Members of the House of Representatives
(b) Ministers of Government
(c) Parliamentary Secretaries
(d) Permanent Secretaries and
(e) Chief Technical Officers.

There is an immediate problem with the offices specified above for the making of declarations. That problem is that the net is not wide enough and does not include senior officials in State Enterprises, Public Utilities and Local Government Bodies. These are areas where considerable sums of public money are spent and strategic decisions are made that can be beneficial to officials and their friends or relatives depending on what is at stake.
At the same time, it must be appreciated that corrupt activity cannot be stopped, but it can certainly be made more difficult to implement. In drafting any legislation, care must be taken to balance the regulatory requirements in such a manner that the obstacles to corruption will not impede qualified persons from accepting invitations to render public service in the various institutions and agencies of the state so regulated.

The present arrangements for the operation of the Integrity Commission do not give it any major powers of investigation, far less powers of prosecution, where
3. That Chairmen, Chief Executive Officers, Deputy Chief Executive Officers and the Chief Financial Officers of Public Utilities appointed by the Government of Trinidad and Tobago be required to make declarations of their assets, liabilities and income to the Integrity Commission.

4. That Chairmen and Chief Executive (or Administrative) Officers of Local Government Bodies be required to make declarations of their assets, liabilities and income to the Integrity Commission.

5. That the Integrity Commission be given powers of investigation and prosecution in respect of offences under the revised Integrity in Public Life Act.

6. That the list of offences be widened to include those itemized by the Integrity Commission in its 1991 report namely:

   (i) Conflict of interest.

   (ii) Using information gained in Public Office for Private gain.

   (iii) Using the influence of Public Office for further Private interest.

   (iv) Accepting benefits connected to Public Office, carrying on business incompatible with Public Office.

   (v) Accepting office in the Private Sector immediately after retirement involving confidential information obtained as to Government Policies while in Public Office.
Ethics has been defined as the science of morals, rules of conduct and the basis for conforming to recognised standards. It constitutes the principle by which people can live together successfully in a sustainable society.

**Business Ethics** as a follow up provides the principles by which business can thrive in a sustainable business and social environment.

Business ethics are the ethical standards expected of the organisation by the business and social community with which it interacts, the standards expected of employees by the organisation and the standards expected of the organisation by employees in turn. Also, the ethical standards expected of society by the organisation and those expected of individuals by other individuals within the organisation.

Business ethics embrace in the main items such as Legal Compliance, Political and Commercial corruption, Advertising and Promotion, Health and Safety and Environment.

The Expected Code of Conduct covers areas such as:

1. Conflict of interest
2. The giving and receiving of gifts, hospitality and bribery.
3. Duties of confidentiality and proprietary information
4. Insider trading, and
5. The misuse of company assets.

The unwritten ethics embodied in hiring of employees covers areas such as Equal Employment opportunity, Health and Safety needs, Standards of the work environment, and adequate and fair compensation, Rewards and Benefits.
Although the ethics issue goes far beyond the confines of business, ethical issues within corporations intertwine with community and social concerns. It is believed that business reflects society. The ethical values exhibited by its businesses indicate the strength or weakness of the ethical fibre of a community.

Whilst in a man there is sincere desire to be ethical, it is difficult for some people to come to grips with questions such as:

"What constitutes ethical conduct?"

"If someone else is breaking a law and getting away with it, is it all right for you to do so?"

"Is all unethical behaviour illegal?"

"Is all illegal behaviour unethical?"

"Is there a difference between ethics and morality?"

These persons were terribly confused and had no accepted frame of reference to guide them in making ethical choices, which in turn become the foundation of lifelong ethical behaviour. It appears that our educational, professional and business institutions are ignoring an obvious medium for positive ethical reinforcement, in teaching their subjects at school.

**What drives people to unethical, immoral, sometimes even illegal behaviour?**

Contrary to what might be commonly assumed in many situations, the people involved in this unsavoury behaviour were often people held in the highest esteem who acted on what they thought were honourable motives. In other instances, these were essentially "good" people caught on the horns of a dilemma. They chose what they thought was the best course of action within the context of their limited understanding of the ethical constraints or rules in place at that time.

They rationalised:

(i) That the activity was not really unethical.

(ii) That it was in the best interest of the corporation or the group.

(iii) That it was common behaviour by others who were not discovered, so that they thought they could get away with it.
(iv) That since this would benefit the company, the group, or whatever, that unit would condone and reward their behaviour.

Business people often forget that business is more than profits, numbers, rules and procedures. Business is people and relationships. It is employees, customers, suppliers, stockholders, politicians and families. While there are many ethical people in companies making ethical decisions, business leaders must make a greater effort to seek out these people and provide them “star status” in order to send a message to all employees on the importance of ethical behaviour. What can be done? If we are so inclined we can strengthen our commitment to ethical behaviour in the workplace. How?

(i) Start with the objective that ethics will become a common part of all policy decisions being made by corporations, professional associations and political institutions.

(ii) Develop codes of ethics that go beyond censoring narrow, illegal and otherwise questionable behaviour that is detrimental to the profitability of a business.

(iii) Develop codes that deal with moral values and community relationships as well.

(iv) Encourage schools, colleges and universities to include comprehensive ethics programmes in all curricula.

(v) Nurture the ongoing development of a solid ethical base through appropriate educational opportunities in the ethical standards of the organisation.

This is not to suggest that making the proper decision based on ethical principles will be easy or simple. Some situations are not that clear. Often there are ethical principles in conflict. In some cases, making the proper decision from an ethical viewpoint may be expensive. But dealing openly with these problems can make the process less painful.

In the final analysis, growth in ethical behaviour depends on individuals developing a firm understanding of what constitutes generally accepted ethical behaviour. This must be followed by individual acceptance of responsibility for one’s own behaviour. Finally, there must be social, legal, managerial, political, and educational structure that encourages and rewards ethical behaviour.
EMPLOYER ETHICS FOR CORPORATE LONGEVITY

The purpose of this Paper is to review selected views regarding the application of ethical behaviour by business in its daily operations and the resulting effects on the enterprise.

Linowes traced the concept of an institution as

"an artificial person beyond the lifetime of one or more individuals"

from the 13th century to the present day embracing the ancient civilizations of Asia Minor, the Greek city-states, early Roman society, the joint stock-company organization with the 14th century Florentine Medici banking family, early colonial ventures such as that of the 1600’s to underwrite the journey of the ship Mayflower, the Hudson Bay Company of 1670 (still active today), the British partnerships of the 1700’s and 1800’s and such American ventures as those of the later 1800’s set up to construct canals and the railroads.

The advantage of incorporation included

- easier access to large amounts of capital

- reduction of individual risk and limitation of losses

- the facility for obtaining required management

- facility for sellout of share ownerships

The early period was not without its ethical questions as it is reported that

"charters at the outset .... were difficult to obtain. They were granted by legislative Acts that usually required lobbying, political favoritism, or gift-giving to officials."
Linowes further observed that

".... the true substance of the corporation is as a collective effort of individuals. It is essentially a human or social organization .... (E)ach corporation develops its own policies, customs, and reputation, which tend to mold the entire unit into a culture of its own .... (T)he corporation increasingly established itself separate and apart from each of the people who composed it, and it became recognized as distinctively different from other corporations."

He notes that corporations are increasingly asked through society as a whole and through bodies such as trade unions to return to society.

"over and above their industrial productivity a fair share for what they receive."

Differences arise as to how to define and even identify that share, especially taking into account the capacity for corporations to influence the government and the political process. Corporations are a part of the social and moral continuum of the community and must therefore be held accountable since so many of their activities are

"solely the intentions of the corporations themselves."

As a result, quite apart from profitability as expressed in its Statements of Accounts, the author cites several proponents who call for a corporation to prepare a Social Report setting out social actions taken by it which are voluntary and above what is required by law.

Friedman advocated that the social responsibility of business is to increase its profits

"In a free-enterprise, private-property system,"

he continued.

"a corporate executive is an employee of the owners of the business. He has a direct responsibility to his employers. That responsibility is to conduct the business in accordance with their desires, which generally will be to make as much money as possible while conforming to the basic rules of the society, both those embodied in law and those embodied in ethical custom."
Friedman accepts that the corporate executive might well feel obligated to respond to other voluntary responsibilities. The executive is free to respond to these latter in his own time and on his own terms without jeopardizing the profitability of the corporation. Whatever "social responsibility" he embraces within the ambit of the resources of the corporation must serve the intentions of the owners as their agent.

The case is different for the individual proprietor who, in espousing "social responsibility" is spending his own money.

The fundamental basis of Friedman's view is that

"there is one and only one social responsibility of business - to use its resources and engage in activities designed to increase its profits so long as it .... engages in open and free competition without deception or fraud."

Andrews of the Harvard Business Review defined corporate social responsibility as including in past "voluntary restraint on profit maximization" by such activities as

- contributions to education and other charities,
- the selection of an ethical level of operations higher than the minimum required by law and custom,
- the choice between businesses of varying economic opportunity on grounds of their imputed social worth,
- the investment for resources other than economic return in the quality of life within the corporation itself.

Andrews contend that the accomplishment of corporate social responsibility requires the adoption of a consistent corporate strategy and organizational behavior with this goal in mind. The corporate strategy may easily suggest itself given the product, the market, and the social environment. The facility for the adoption of the optimal form of behavior is affected by the size of the corporation. In a small corporation the behavior of the organization may approximate that of the chief executive. In a larger corporation the influence of the chief executive suffers by being reinterpreted at each level of hierarchy by persons who may share
neither the chief executive's fervor nor determination and may not believe that he means what he says. Since individual and corporate survival always takes precedence over social concern, greater attention is generally always paid to short-term quantifiable results.

Carr of the Harvard Business Review argues that the ethics of business are not those of society, but rather those of a poker game:

“If the law as written gives a man a wide-open chance to make a killing, he’d be a fool not to take advantage of it. If he doesn’t somebody else will.”

Carr had ample opportunity from a consulting career to observe the tensions which arise from conflicts between the ethical sense of an individual and the realities of business. He was struck by the similarity of the special ethical attitude apparent in many successful and stress-free businessmen in their work to that of good poker players “... bluffing in business .... as game strategy .... does not reflect on the morality of the bluffer.”

He continued to observe

"... millions of businessmen feel constrained every day to say YES to their bosses when they secretly believe NO and that this is generally accepted as permissible strategy when the alternative might be the loss of a job. ... (T)he ethics of business are game ethics, different from the ethics of religion.”

Carr noted certain alleged characteristics of enterprise which might indicate a divergence between theory and practice

- built-in obsolescence of products
- eschewing knowledge of the behavior of lobbyists
- "customer loyalty"
- non-reporting of certain facts
- corporate espionage.
However, Carr further noted

"... as long as a company does not transgress the rules of the game set by law, it has the legal right to shape its strategy without reference to anything but its profits. If it takes a long-term view of its profits, it will preserve amicable relations, so far as possible with those with whom it deals. A wise businessman will not seek advantage to the point where he generates dangerous hostility among employees, competitors, customers, government, or the public at large. But decisions in this area are, in the final test, decisions of strategy, not of ethics."

Carr postulates that

"An individual within a company often finds it difficult to adjust to the requirements of the business game.... When he is obliged to carry out company policies that challenge his conception of himself as an ethical man, he suffers."

He suffers most, apparently, when he himself initiates the action which is the source of his moral dilemma.

**Sherwin** defines ethics to mean

"the discipline that considers the justifications people offer for the principles and values they hold."

It is a set of moral principles or values to guide behavior. Business leaders, he claims,

"should have more strongly held values than the rest of society because they have a responsibility - a position of trust - with employees, stockholders, and customers ...."

He acknowledges that many decisions of business leaders

"create a tension between a person's values and the decision taken or contemplated."

He insists however that the greater the tension, the pull of values,

"the more intense will be the leader's search for solutions - and the greater the likelihood of good decisions."
Sherwin cites by way of example the dichotomy which confronts a profit center manager who will be judged, in the main, by immediate return on investment but whose portfolio contains such time-consuming elements as:

- developing new products
- redesigning products
- restructuring the organisation
- broadening sales coverage
- expanding capacity
- redefining of mission and vision

Such elements, Sherwin observes,

"penalise current earnings and may increase investment. But profit-center managers are often fast-track executives being tested for advancement in short-term assignments. (Thus) profit center managers may forego the very developments on which sustained economic performance of the business depends, ...The conflict of interest inherent (here) threatens long-term economic performance."

One method of internal audit used to mitigate this problem is the assessment of the performance of the profit-center manager by additional criteria including

- improvements in the work place climate
- tendency of the quality of production machinery towards state-of-the-art
- strengthening of organizational structure and staffing

Sherwin also agrees that apart from ethical considerations which have significant effects on daily operations, the social call to business is great, amongst the factors being
conflicting social demands
- business responsibility to the public

Ciulla argues that modern managers view the corporation as a moral environment when

- they cease regarding employees as mere tools for achieving corporate goals
- they view employees from a social perspective
- they accept that the corporation has certain moral obligations including
  . avoiding direct harm to employees
  . respecting employee rights
  . communicating honestly
  . keeping promises
  . respecting the contents of labour agreements
  . obeying national laws and government regulation
  . helping employees in need.

The following provisions by a corporation can and usually do indicate serious attention to the moral obligations above

- safe work environment
- reasonable working conditions,

some examples of facilities illustrative of the above being:

- athletic facilities
- employee assistance programs

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- job enrichment programs
- lunch rooms
- participatory management
- profit sharing
- protection against unfair dismissal
- quality circles

However Ciulla quotes with approbation the dictum of a labour leader:

"The worst crime against the working people is a company which fails to make a profit."

Ciulla also recalls the realization of Aristotle that

"one could not discuss the nature of a morally good person without discussing the social conditions necessary for developing and sustaining such people .... (P)ersonal morality requires certain institutional or organization arrangements."

Such arrangements within a corporation include

- ensuring that the formulation and implementation of a policy respects the ethical beliefs of employees
- communicating in word and deed the ethical standards of the corporation.

Ciulla questions whether the solution to the dilemma of moral stress within the corporation as cited by Carr is practical:

"A person who .... can lie or cheat in good conscience at work is likely to be able to do so in other contexts as well."
Factors which produce a poor moral environment within the firm according to Ciulla include:

- conflicting policy goals
- unethical corporate practices
- poor leadership
- poor controls.
In the Universal scheme of things Almighty God placed Man at the pinnacle of His creation and chose men as His Vicegerent. (Al Quran 2:30). He provided man with all the good things created on the planet earth. (Quran 2:29)

He endowed man with the faculties and capacities to imbue himself with Divine attributes.

God has also assigned a holistic role for man which is to worship and serve Him by serving one's fellowman (Quran 51:56 without any reservations or discrimination.

The values of righteous living that Islam propagates permeate all facets of human endeavour and seek to promote human welfare and the total development of the human personality.

Action in every field of human involvement is spiritually inspired provided it is in harmony and consonance with the moral values of Islam.

A short list of objectives given hereunder should provide an adequate framework for discussing and elaboration on such moral values.

a. Economic and social integrity within the framework of the moral norms of Islam.

b. Universal brotherhood and justice.

c. Equitable enjoyment of public resources.

d. Freedom of the individual within the context of social welfare.

(a) **Economic and social integrity within the framework of the moral norms of Islam.**

"Eat and drink of that which God has provided and act not corruptly, making mischief in the world" (Quran 2:60)
"O you who believed: forbid not the good things God has made lawful for you and others and exceed not the limits. Surely God loves not those who exceed the limits and eat of the lawful and good that God has given you, and keep your duty to God in whom you believe. (Quran 5:87)"

These verses strongly emphasise the keynote of the message in the economical sphere.

Muslims are enjoined to enjoy the bounties of God and equate the struggle for such attainment of well being as an act of virtue. Islam has prohibited begging and urged Muslims to earn their livelihood through legitimate means. One of the economic goals of the Islamic society is the creation of such an environment that those who are willing to and looking for work are able to find gainful employment in accordance with their abilities and qualifications.

If this is not accomplished then society cannot progress in a peaceful and prosperous manner even spiritually, because rising unemployment will lead to hardship, want, deprivation, immoral practices, antisocial behaviour and unrest threatening the integrity of those charged with executive responsibility of managing the affairs of State:

(b) Universal brotherhood and Justice

"O mankind we created you from a male and female and made you into tribes and nations, so that you may know each other. Surely the most honoured to you before God is the most righteous of you." (Quran 49:13)

On the day of judgement God will not ask you about your noble descent or your lineage rather the most honoured of you before God will be the most righteous of you (Hadith)

Islam aims at establishing a social order where all persons are united by bonds of brotherhood and affection similar to members of one family with God as the only father. The universal brotherhood transcends all barriers of race, ethnicity, colour or language.
"A believer is the brother of another believer he neither wrongs him, nor leaves him without help, nor humiliates him" (Prophet's saying)

Closely associated with this concept of brotherhood is the establishment of justice as a part of faith.

"Those who have faith and mix not their faith with injustice, for them is peace and they are the ones rightly guided." (Quran 6:82)

Muslims are therefore not merely exhorted but persistently urged to establish justice.

"God commands justice and doing of good". (Quran 16:90) "and when you judge between people judge with justice." (Quran 4:58)

Justice commands a place of paramount importance in Islam such that being just is considered a part of being pious and God fearing.

Says the Holy Quran:-

"O you who believe be upright for God, bearers of witness and justice, and let not the hatred of others make you swerve from justice. Be just, this is nearer to piety and fear God, for God is aware of what you do." (Quran 5:8)

The course of justice must be followed even if this hurts one's own interest of one's relatives.

"And give full measure and weight with justice. We do not impose on any soul a duty except to the extent of its ability and when you speak; speak justly even if it be against a relative." (Quran.6:152)

And again:

"Be the establishers of justice and witnesses to God even if this be against yourselves or your parents or your near ones, whether they be rich or poor, for God can best protect both. So follow not your low desires lest you deviate. And if you swerve or decline to do justice then remember that God is aware of what you do." (Quran 4:135)
Since Islam considers mankind as one family, all members of this family are alike in the eyes of God and before the law revealed by Him. There is no difference between the rich or the poor, the high or low or white or black. There must be no discrimination due to race, colour or station in life. The only criterion of a man's worth is character, ability and service to humanity.

Said the Prophet of Islam:-

"Certainly God looks not at your face nor your wealth, but He looks at your heart and your deeds." "The noblest of you are the best in character."

c. Equitable enjoyment of public resources

With the unique commitment of Islam to human brotherhood and to social and economic justice, gross inequalities could give rise to anti-social behaviour and a threat to the stability of law and order.

The Islamic programme for distributive justice of resources is so formulated that it caters for the disadvantaged as well as the advantaged ensuring that every individual is allowed a standard of living that is humane and respectable and in harmony with the dignity of man as God's vicegerent on earth.

The jurists have unanimously held the view that it is the duty of the whole Islamic Society in general, and of its rich in particular, to take care of the basic needs of the poor and should they fail to observe their responsibility, the State can compel them to do so by taxation and legislation.

Distributive justice in an Islamic society after guaranteeing a humane standard of living to all members through compulsory taxation - ZAKAT - allows such differential in earnings as are commensurate with the value of contribution or services rendered to the society.

d. Freedom of the individual within the context of social welfare.

"The most important statute in the articles of faith of a Muslim deals with the fact that man has been created by God and is subservient to none but Him." (Quran 13:36)
Because man is born free and given an independent will, not even the state has the right to abrogate his freedom and fundamental rights.

However if the individual in the exercise of his freedom hurts the interests of others then that freedom can be restricted or curtailed.

Social welfare holds an important place in an Islamic society and individual freedom though of primary significance is not independent of the social implications. The larger interest of society takes precedence over the interest of the individual.

In short, no sphere of life is exempt from the universal and comprehensive application of the moral principles of Islam. It makes morality reign supreme and ensures that the affairs of life, instead of being dominated by selfish desires and petty interest, be regulated by norms of moral integrity.
INTEGRITY - A SPIRITUAL PERSPECTIVE

Integrity - it is an integral part that man should know right from wrong. The conscience is what is given to man, to establish within him such a consciousness. Integrity brings the soul and spirit of the man back to the foundation of man's oneness with God. However, man's desires strips him of such a natural process. For this is an inherent characteristic that a man is born with the ability to choose.

In this presentation aspects of justice, conscience, law and love, in public life will be featured. Those to whom much is given, much is expected. Those to whom a people seek to see and find within, a part of themselves, speaks of growth and development.

What is public life?

It is the dedication of a person's skills and ability, to the development, not only of an individual, but of a surviving earth. Persons in public life must understand what this means to them. What does it mean? It means that you guide and lead others to understand themselves and their relationship with the earth's creation.

How can this be?

You may believe this is a holistic approach, but it goes beyond this limited knowledge. In all the laws of all the scriptures guidance is given from the source, how man must conduct his behaviour. The New Testament states that unless a man leaves all and follows after this truth he cannot enter into the realms of such knowledge.

Integrity therefore, is firmly standing to the truth. We are of the view that integrity is paramount to the development of all people in the public life of Trinidad and Tobago, and must be fully defined. We submit by definition that:

"Integrity is the maintenance of man's divine communication with God through righteous action."
The question is, how can a man know the divine communication? The answer is, that a man cannot perceive without practice nor imagine that which is not there with him, around him and within him, unless it is so given. In looking at the questions and topics taken into consideration on the whole question of integrity, it is our view that any proposed legislation on integrity must first focus on the Word of God as the basis of all integrity. We would therefore, reclassify the topic focus as Holy Integrity.

In the religious order, the foundation of integrity continues to be very profound. In the scriptures, the first Rule of Law is that a man give back that which he receives as payment for the gift of receiving.

1. Conscious thought of action one to another for the maintaining of amicable relations. The well-being of one becomes the development for all, "I am my brother's keeper"

2. Declaration of material assets as at the time of appointment is important for defined implementation of the laws enacted.

IMPLEMENTATION

1. A man must be taught to understand his obligation to the society he represents for his visual appearance is what the whole will be modelled after.

2. Values of the divinity of God he must feel.

3. It begins with a thorough investigation of his background for honourable considerations.

4. An oath of the secrecy of the word is placed upon him, but a portfolio of receivership must be forthcoming and therefore a man becomes responsible for the consequences of his own actions.

5. The questions that the Integrity Commission asks by the Memorandum can only be outlined, when one considers the society's public service representatives as they are now. The first thing to be considered is the persons' surrender to the way of God.
Integrity is more than just a word; it is an **action** word.

The forces on integrity surrounds us everyday and this can be expanded by the authorities charting a memory program of the right and wrong way of charitable presentation.

As the application is made, knowledge of his name is identified and reference is made as to his legitimacy of appointment being that seventy-five percent of all that is given and done is done through the absence and/or development of the reformee or recommender. Academic facility of a named discipline or relative, experience to systematic development must be addressed. So the first idea is to ensure that those recommending have the ability and authority to so do.

You might have found that it has been a thorough practice of all peoples to make claims even when no claim is necessary to be made.

The practice of such development must be self denial, and this will speak volumes. It is a known fact that groups are established not through their own submissions or their own knowledge, but by the goodwill of the minority rather than the majority.

A thorough look at integrity is the definition of the role of the individual, therefore, the individual situation. A question is asked, who are you? I am those things that God wills me to be, through the service I give unto my brothers and therefore, I give freely of the mercies and wisdom that are given for the development of humanity. This is integrity.

**PROPOSED DRAFT**

A man shall in no way betray the trust given to him by the people to whom he gives service. His trust is in public life to serve with the full capacity of his knowledge temporal and spiritual. To take only that which is necessary for his own development temporal and spiritual. To declare the gifts of love for such service and to give of the gifts that percentage for the development of the people to whom his trust is given as was the example given in the Act of the Apostles (Ch. 5) with Ananias and his wife who when the gift was given, in not giving that which was outlined by the law to give, destruction to the self became his end and hers.
Therefore, if a man is found to lose himself in his desires through the gift of his
public status by the people he serves, then integrity dictates that he be removed
forthwith, form such office. And his reformation be his conscious service unto the
development of men who seek to take from society that which they did not put into
it for its growth and development.

Those in public service must go through a rigid education through psychologists,
religious activist, human rights privileges committees, the understanding of a moral
code and thereby assessed for the upholding of the office chosen.

When the choice of those chosen are beyond committee levels and are instigated
by the mandatory choices of the people, every action that he seeks to respond to
a situation in, consideration must be for those whom he represents or responds
to or is responsible for. If he fails in this ability to define and distinguish the
parameters of his choices for himself or the community, then his integrity is lost
and he is required to go through counsel of the spiritual leaders and psychological
experts for redefinition of the role, in order for him to maintain a balance of
himself within the system.

All persons within public life should be inclusive within any integrity legislation but
with defined levels, the higher you go more accountability is expected, yet the
same for all, with the responsibility of the monitor committees to commensurate
with those defined levels.
The higher the level, the greater the responsibility, the greater the temptation,
therefore, it is necessary for provisions to be made to provide for the review and
reminder to the functionaries at all defined levels as to the purpose and
responsibility of such purpose.

The monitor committees in its formation must include, men of the cloth, doctors
of psychology, judicial officers, sociologists.

In the framing of legislation, it must include that the humanity of the person holding
office must be kept as an example for the people and not be lost by the people in
their judgement. The law must seek to help create the perfected man in the
acknowledgement that the perfect man has not yet been created. Tolerance and
discipline of self through the voice of conscience wields the production of
advancement, the key to progress and the door to integrity.