



END OF YEAR FUNCTION HYATT REGENCY TRINIDAD

MONDAY, DECEMBER 16, 2013

ADDRESS BY CHAIRMAN KENNETH GORDON

Former President of the Caribbean Court of Justice and former Chief Justice of Trinidad and Tobago and Mrs. de la Bastide

Your Excellency, Mr. Arthur Snell, British High Commissioner to Trinidad and Tobago and Mrs. Snell

Auditor General, Mrs. Sharman Ottley

Head of the Public Service, Mr. Reynold Cooper and Mrs. Cooper

Director of Public Prosecutions, Mr. Roger Gaspard

Chairman of the Police Complaints Authority, Ms. Gillian Lucky

Other Distinguished guests.

On behalf of my fellow Commissioners, the Registrar and staff of the Integrity Commission, it is my pleasant task to welcome you. We are truly pleased that you have been able to join us this evening.

We launched a call to DO THE RIGHT THING at our Annual function last December...a limited, simple message, but one which is increasingly working its way into the national vocabulary. Unfortunately there are contra-indications which suggest that the message is being more spoken than lived. But the first step is to *say it*, then *think it* and finally *live it*, transforming what starts as a good intention, into a culture. This continues to be high on the Commission's agenda.

Like 2012, the year now ending has carried its share of controversies; a concomitant of doing what is necessary.

Last year it was a matter of confidentiality, which was resolved in the High Court and ended with favourable judgments for the Commission on each of its submissions. Such action also ended what had become a serious problem for the Commission.

This year the controversy was crude and personalized. In effect it sought to publicly test the validity of Section (5)((2) (a) and (c) of the Integrity in Public Life Act and in particular the provisions which state that the Commission, *“...shall not be subject to the directions or control of any other person or authority...”* and also, *“...the Commission shall have the power to do such things as it considers necessary or expedient for the purpose of carrying out its functions...”*. These clearly spelt out provisions were evidently in some instances not taken to mean what they said and it was and may continue to be necessary for the Commission to ensure that they are.

The Integrity Commission has demonstrably fulfilled its responsibilities on both fronts reinforcing its commitment to Do The Right Thing in the process. And it has grown so much stronger for having confronted them.

At the operational level, the Commission suffered from a late start due to the hand over from the retiring Commission to our current team of Commissioners appointed by incoming President Carmona. I am pleased to say they have functioned effectively and after only seven months, 1,139

Declarations have been certified with another 2,700 being processed, as responses to queries are awaited.

Likewise with our Investigations. Last year 74 complaints were received and 38 were completed. At the end of November, a few days ago, 54 were received in the seven months of the new Commission's existence and 48 have been completed. With an inherited back log from 2012 the Commission now has a total of 42 investigations at hand. Permit me to add that this strong performance was greatly facilitated by the ground work of the previous Commission and equally important that as desirable as it is to resolve matters promptly, this can never be as important as the thoroughness with which each complaint must be investigated.

Given recent events it may also be helpful to add some clarity to an issue which has been publicly raised. I refer to the suggestion that individuals have to be informed when complaints are made to the Integrity Commission about him or her. That issue was first raised on April 5th,

2011 when the Commission was advised by its Investigation department that there was no law which required such advice to be given at the time of complaint; advice which was reinforced in February, 2013 by Senior Counsel, who confirmed that position.

It was pointed out that such early advice would provide an opportunity to destroy or conceal evidence thus compromising the investigation. The Commission was advised to treat with this issue on a case by case basis and it has done so. Where early information has been provided this has been done as a courtesy when the Commission considered it appropriate to do so. Unfortunately civilized behaviour is not always appreciated.

On another corruption related development. It has recently been announced that the Transparency International Perception Index shows that Trinidad and Tobago has moved three points in the wrong direction. This is disappointing for our fledgling democracy. But it must be understood for what it is...a perception. One that is based on a survey

framed in the developed world in circumstances that are significantly different from countries such as our own. Our frequent and prominent public Commissions of Enquiry and public discussions on corruption related issues are designed to uncover corruption. This is part of the fight to expose failures of accountability and significant sums of money are spent to do so. These result in front page newspaper stories and headline electronic media coverage which move quickly in today's world with magnifying impact. Perception of the problem is frequently blown out of all proportion to the reality.

This is not an argument for obfuscation for Censorship is most certainly not the answer. But such distorted perception becomes punitive for the wrong reasons. Events which could otherwise be hidden are being exposed. It is illogical therefore to be penalized in the Perception Index for attempting to Do The Right Thing. In fact, if information from such surveys is intended to assist in battling corruption our responses must be based on factual information, which would give the precision of measurement for targeted reduction of corruption in key sectors.

The Integrity Commission has therefore recommended to Government the establishment of a Trinidad and Tobago Corruption Index. We have been collaborating with the University of the West Indies (UWI) to construct a Trinidad and Tobago Corruption Index that could serve as a corruption barometer, designed to specifically measure the occurrence of actual corruption in Trinidad and Tobago. Partnering with the UWI on this undertaking will assist in establishing the Trinidad and Tobago Corruption Index, nationally and internationally. It should prove a reliable tool at many different levels for measuring corruption in Trinidad and Tobago and perhaps at a later stage, other Caribbean countries.

It is proposed that it be a baseline survey with subsequent annual surveys to update the Index. The sample should be 5,000 persons across targeted sectors with a margin of error set at 3% to 4%. The survey will target but is not limited to:

- The Private Sector
- Civil society

- Non-Government Organizations (NGO's)
- Police and Armed forces
- Public Officials
- Local Government Bodies
- Investors.

Our recommendation was submitted to the Secretary to the Cabinet on August 6th, 2013 and we now await a response.

I turn to what I am convinced is the issue which, more than any other, can determine whether or not the Integrity Commission effectively responds to the challenges of the times and plays the role that is required of it. I refer to amending the Integrity in Public Life Act to empower the Commission to ACT rather than be almost entirely dependent upon the cooperation of those being investigated.

The Commission itself has no power of sanction and its only route is through the High Court to compel compliance with some of its demands

for information and documentation see section 34(2). But even here there are demands which the Commission is empowered to make which cannot be enforced. A clear example of this is that a request for information or documents relating to the function of a public or private body which do not also relate to a person under investigation are not enforceable Section 34 (1). Neither can the Commission force a complainant or any witness to subject himself to oral examination.

It may also be relevant to point out that we have recently had a situation where section 11 (7) of the Act states that we can proceed, “...at any time after the publication..., may ... “make an ex-parte application...”. We moved immediately and did everything we could to commence immediate action against an initial 12 persons who failed to provide further particulars as required. Unfortunately, with the best will in the world, it has taken some five weeks before an order could be served against the first declarant. Now the Court has given a further 30 days to comply with the requests for information. This is not the fault of the Court. What it does mean is that where sanctions could have been applied promptly, once the issues were

clearly established, long delays are inherently built into the existing system. A situation which repeats itself in so many instances. Of course there is much to recommend the conservative approach in dealing with matters which come before the Commission in normal circumstances. But these are not normal times, and it is important that instances of non-compliance and possible corruption be dealt with promptly.

I have given you a snapshot of the Commission's activities in our Compliance and Investigation Divisions. Our Public Education Outreach Programme is now in its final stages of preparation for a number of new initiatives will be taken. One which has already become established is the DO RIGHT CHAMPIONS amongst the schools. We have recently had some of our Commissioners visit Primary and Secondary schools to discuss and promote Integrity amongst our children and students have been invited to submit short stories and monologues on that theme. Six hundred and forty seven entries have been received. So we are now going beyond DECLARATIONS, INVESTIGATIONS and STATE ENTERPRISES.

The message of Integrity must begin in our homes and our schools and we will keep you advised as we expand this message in the NEW YEAR.

Ladies and gentlemen, I am pleased to say that this has been another highly productive year for the Commission. There has been controversy but the Integrity Commission is not constituted to either win popularity contests nor win friends. Our role is to promote integrity and reduce corrupt behaviour. Conflict is therefore unavoidable. The public spotlight is harsh and demanding. But I must add, this should never be at the cost of civilized behaviour, for this demeans us all as a country and as a people. The Integrity Commission will continue to discharge its responsibilities with the even-handedness to which it is committed and we ask you, all of you, to work with us to arrest the deterioration we see on so many sides. Help us to build the institutional strength and national purpose which is one of the ultimate answers to the problems of mature nationhood.

I could not end my comments without formerly thanking my fellow Commissioners and the Registrar and Staff for their tremendous contribution to the work of the Commission. The fact that three and a half months were lost in the transition phase has in no way altered the internal objectives which have been set. Even the further handicap of having lost some four of our key people has not dampened the momentum. In fact these setbacks have stimulated a stronger innovative approach in the search for answers to whatever the difficulties we encounter.

So to Commissioners, Deputy Chairman Justice Sebastian Ventour, Dr. Shelly-Anne Lalchan, Deonarine Jaggernaut, and Seunarine Jokhoo who is in his fourth year as a Commissioner and to their spouses whose support has been given, I know at a high price, I say thank you most sincerely for your outstanding service to the Commission.

To our supportive staff I am very pleased that the New Year will bring you the well-deserved reward of New Premises at Tower D at the Waterfront Complex. Your long patient wait is now rewarded.

My special wish for the New Year and the future is that you will maintain the high morale and Team Spirit which has been so effectively nurtured and maintained by our hard working Registrar over the years. Thank you Martin for always rising to the occasion.

Many thanks again for your support and a truly Happy Season to you, your spouses and your families.

Kenneth Gordon
Chairman