

PRESS RELEASE  
LAW OFFICERS OF THE STATE

The Law Officers of the State occupy a special and sensitive position in the performance of their duties in giving legal advice and counsel to the Government of the day and in making crucial decisions relating to the administration of justice, such as whether certain prosecutions should or should not proceed, notably under the Integrity in Public Life Act and other stringent legislation.

These officers must give independent legal advice and make professional decisions relating to the administration of justice. What they recommend or decide must be guided by the relevant legal principles applicable to the matter under consideration. It is not part of their function to tailor their advice or decisions against their professional understanding of any given situation to suit the perspective of any politician.

There are three posts designated as Chief Legal Officers: The DPP, who is the head of the criminal law department, the SG, who is the head of the civil law department, and the Chief Parliamentary Counsel ("CPC") who is the head of the legislative drafting department. The Law Association is concerned that all three posts of Chief Legal Officer are vacant. Ms Claire Blake SC retired as CPC in or about November 2008. Ms Lynnette Stephenson SC performed the duties of SG about three years ago. Subsequent to her departure to become the Ombudsman, Mr. Terrence Thorne was appointed to act as SG but unfortunately, he passed away in August 2007 and that post has not been filled, either permanently or by an acting appointment. Mr. Geoffrey Henderson left the post of DPP in January 2009 and now there is another unacceptable vacancy.

The Law Association has been particularly concerned that the civil law department has been without an SG for such a long time and is now greatly disturbed by reports that the Prime Minister has signified his objection to the appointment of Mrs. Carla Browne-Antoine to act as DPP following the elevation of Mr. Henderson.

The Law Association recognises that the Constitution gives an express right to the Prime Minister to signify to the Judicial and Legal Service Commission ("JLSC") his objection to the appointment of any person to any of the offices of Solicitor General, Chief Parliamentary Counsel, Director of Public Prosecutions, Registrar General or Chief State Solicitor.

We also recognise that no appointment can be made to those offices unless the JLSC consults with the Prime Minister and that the JLSC cannot proceed with any appointment to which the Prime Minister has signified his objection.

Nevertheless the Association is firmly of the view that an objection to the appointment of any person to any one of those offices must be fully justifiable. Moreover it would be entirely against the well-established requirement that Law Officers perform their duties independently for a proposed appointee to be rejected because it was perceived that the appointee was not in tune with the political aspirations of the Government of the day.

The Law Association is also firmly of the view that any person against whom objection has been signified is entitled to know the reasons for such objection. In the absence of those reasons, the Association notes that objections have been signified against a proposed appointee as SG and now to Mrs. Carla Browne-Antoine as DPP when the known track record of these experienced officers suggests that they are competent and worthy to hold office as SG and DPP respectively.

The Association expresses its concerns against a background of proliferation of legal advisers in various ministries whose appointments are not subject to the scrutiny of the JLSC. Without casting any aspersions on the many excellent Attorneys-at-Law employed in Government Ministries outside of the departments headed by the Law Officers, the practice and tradition of Law Officers acting free of political interference should not be placed in further jeopardy. In many cases, our liberties depend on freedom of the Law Officers of the State from such political interference. Any erosion of this freedom is a dangerous trend.



Martin G. Daly S.C.

President

February 17, 2009