

THE COMMISSION OF ENQUIRY (VALIDATION AND
IMMUNITY FROM PROCEEDINGS) BILL, 2009

Arrangement of Clauses

Clause

1. Short title
2. Act inconsistent with Constitution
- 3 Interpretation
4. Validation of proceedings and record of the proceedings of
commission of enquiry
5. Validation of any matter or thing done by commissioners
6. Validation of evidence given by any witness
7. Use of validated evidence
8. Validation of publications
9. Immunity

*Legal Supplement Part C to the "Trinidad and Tobago Gazette", Vol. 48,
No. 117, 8th October, 2009*

No. 10 of 2009

Second Session Ninth Parliament Republic of
Trinidad and Tobago

SENATE

BILL

AN ACT to validate the proceedings and the record
of the proceedings of the Commission of
Enquiry into the Construction Sector, which
was appointed on 9th September, 2008 by the
President under the Commissions of Enquiry Act,
Chap. 19:01, and for other related matters

THE COMMISSION OF ENQUIRY (VALIDATION AND
IMMUNITY FROM PROCEEDINGS) BILL, 2009

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

The main purpose of the Bill is to validate the proceedings and the record of the proceedings of the enquiry held by the Commission of Enquiry into the Construction Sector (“the Commission”), which was appointed by the President on 9th September, 2008. The Commission terminated its proceedings on 9th September, 2009. The Bill will also seek to validate any matter or thing done by a commissioner as a commissioner, the evidence given by any witness to the Commission and any publication made by a person of any evidence given to the Commission. The Bill will also provide that the evidence given to the Commission can be used by the commissioners in preparing their Report to the President. Finally, the Bill seeks to protect every commissioner in relation to any matter or thing done as a commissioner, any person who provided information or any witness who gave evidence to the Commission and any person who published any evidence or information obtained from the Commission from any action or suit. This has become necessary because, due to administrative oversight, the appointment of the members of the Commission was not published pursuant to section 15 of the Commissions of Enquiry Act, Chap. 19:01 (“the Act”).

The Bill, which contains 9 clauses, would be inconsistent with sections 4 and 5 of the Constitution and is therefore required to be passed by a special majority of three-fifths of the members of each House.

Clause 1 seeks to provide the short title of this Act, for which this is the Bill.

Clause 2 provides that this Act shall have effect though inconsistent with the Constitution.

Clause 3 seeks to provide the interpretation provision.

Clause 4 seeks to validate the proceedings and the record of the proceedings of the Commission between the period 9th September, 2008 to 7th September, 2009.

Clause 5 seeks to validate any matter, thing or act done by the Commission or a commissioner which was done under the purported authority of the Act, notwithstanding the failure to comply with section 15 of the Act.

Clause 6 seeks to validate the evidence given by any person to the Commission.

Clause 7 seeks to provide that the commissioners can use the validated evidence in the conduct of the Commission and in their report to the President.

Clause 8 seeks to provide that any evidence given to the Commission and obtained and published by any person is validly and lawfully published.

Clause 9 seeks to ensure that the Commission, every commissioner and every person who provided information to or any witness who gave evidence before the Commission and every person who published any evidence or information obtained from the Commission shall not be subject to legal proceedings or any other legal action in relation to the proceedings of the Commission.

BILL

AN ACT to validate the proceedings and the record of the proceedings of the Commission of Enquiry into the Construction Sector, which was appointed on 9th September, 2008 by the President under the Commissions of Enquiry Act, Chap. 19:01, and for other related matters

[, 2009]

WHEREAS the President acting pursuant to section 2 ^{Preamble} of the Commissions of Enquiry Act, Chap. 19:01, (“the Act”) appointed a Commission of Enquiry into the Construction Sector (“the Commission”) on 9th September, 2008:

And whereas under section 15 of the Act it is provided, *inter alia*, that all commissions appointed under the Act shall be published in the *Gazette* and shall take effect from the date of publication:

And whereas due to administrative oversight the publication of the appointment of the Commission was not done pursuant to section 15 of the Act:

And whereas the commissioners proceeded from 9th September, 2008 until 7th September, 2009 to exercise the powers which would ordinarily have been vested in them under the Act, including summoning witnesses and parties concerned and examining them on oath and taking evidence:

And whereas it is desirable to remedy the consequence of the failure to comply with section 15 of the Act so that prior to the commencement of this Act—

- (a) the proceedings and the record of the proceedings of the enquiry are deemed not to be invalid;
- (b) the evidence given to the Commission is deemed valid and can be used by the Commission in its report to the President;
- (c) each commissioner shall be indemnified for any matter or thing done by him as a commissioner; and
- (d) every witness who gave evidence before the Commission or any person who published any evidence given to the Commission may be indemnified:

And whereas it is enacted by section 13(1) 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 in section 13(2) 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 Enactment follows:

1. This Act may be cited as the Commissions of Short title Enquiry (Validation and Immunity from Proceedings) Act, 2009.

2. This Act shall have effect even though inconsistent Act inconsistent with Constitution with sections 4 and 5 of the Constitution.

3. In this Act—

Interpretation

“Act” means Commissions of Enquiry Act;

Chap. 19:01

“Commission” means the Commission of Enquiry into the Construction Sector, which was appointed on 9th September, 2008 by the President pursuant to section 2 of the Act;

“commissioner” means a person appointed by the President as a member of the Commission;

“evidence” includes all information, witness statements, books, plans and other documents given to the Commission during the period 9th September, 2008 to 7th September, 2009;

“proceedings” means the proceedings of the Commission between the period 9th September, 2008 to 7th September, 2009.

Validation of proceedings and record of the proceedings of commission of enquiry

4. The proceedings and record of the proceedings of the Commission are deemed to be valid to the extent that it would have been valid if the Commission had been published in the *Gazette* in accordance with section 15 of the Act.

Validation of of any matter or thing done by commissioners

5. Every matter, act or thing done by the Commission or a commissioner under the purported authority of the Act from 9th September, 2008 to 7th September, 2009 that would have been lawful if section 15 of the Act had been complied with at the time when it was done is hereby validated and declared to have been lawfully done by it or him, respectively.

Validation of evidence given by any witness

6. The evidence given by any witness to the Commission during the proceedings of the Commission under the purported authority of section 12 of the Act that would have been lawful if section 15 of the Act had been complied with at the time when the evidence was given is hereby validated and declared to have been lawfully given by that witness.

Use of validated evidence

7. The commissioners are entitled to rely on the evidence validated by section 6 in the conduct of the Commission and in their report to the President.

Validity of publications

8. Any evidence obtained and published or disseminated by any means by any person under the purported privilege of the Act during the purported subsistence of the Commission from 9th September, 2008 to 7th September, 2009 that would have been lawful if section 15 of the Act had been complied with at the time when it was done is hereby validated and declared to have been lawfully done by that person.

9. Notwithstanding any law to the contrary, no legal Immunity proceedings or other action shall be filed or maintained against—

- (a) the Commission or a commissioner for any matter, act or thing done by the Commission or a commissioner;
- (b) any person who gave evidence to the Commission;
- (c) any person who reported, published or in any other manner disseminated any evidence given by a person to Commission in respect of such dissemination,

as a consequence of the failure to *gazette* the Commission on 9th September, 2008, and in relation to the proceedings of the Commission from 9th September, 2008 to 7th September, 2009.

Passed in the Senate this day of , 2009.

Acting Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say by the votes of Senators.

Acting Clerk of the Senate

I confirm the above.

President of the Senate

Passed in the House of Representatives this day
of , 2009.

Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say by the votes of members of the House.

Clerk of the House

I confirm the above.

Speaker

No. 10 of 2009

SECOND SESSION
NINTH PARLIAMENT

REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to validate the proceedings and the record the proceedings of the Commission of Enquiry into the Construction Sector, which was appointed on 9th September, 2008 by the President under the Commissions of Enquiry Act, Chap. 19:01, and for other related matters

Received and read the

First time

Second time

Third time
