

Tell us what YOU think.

E-mail: express@trinidadexpress.com

COMMENT



FAR FROM CLOSED

THE Judicial and Legal Services Commission (JLSC) blundered when it appointed Mrs Marcia Ayers-Caesar to the office of a judge of the High Court. At the time of the JLSC's decision to appoint her, Mrs Ayers-Caesar was the chief magistrate and had a list of unfinished cases before her.

One report says over 50 such cases. Blunder is a kind word to label what has happened.

She admitted that she had not made full disclosure of these circumstances to the JLSC and resigned from the office of judge, expressing regret at her conduct. The JLSC then informed the public that she would be returned to the magistracy to attend to her unfinished business.

This fiasco is so troubling that some commentators, including myself feel that the members of the JLSC have placed themselves in an untenable position, essentially for two reasons.

The first was the JLSC's failure to carry out its own due diligence on the readiness of the appointee to assume her new appointment. Even those who felt that the return of the appointee to the magistracy had solved the problem, acknowledged that the JLSC must accept some responsibility for the fiasco.

With the JLSC's lack of due diligence now exposed, I remind readers that the JLSC's chairman, in response to earlier criticism, had assured us that

MARTIN DALY

These public officials do not even offer an apology for the blunder as a condition of moving on, as is the case with the JLSC at the moment.



rigorous processes had been followed. That assurance now lies in tatters.

The second reason the position of the JLSC is untenable is its lack of awareness of the impropriety of appointing or restoring someone to the judicial office of magistrate after that person has admitted to providing misleading information to the JLSC.

I repeat my view that on account of that impropriety alone the members of the commission should consider whether they could credibly continue in office. Their decision to put back Mrs Ayers-Caesar will gravely undermine confidence in the administration of justice.

This column now examines the statement of the chairman of the JLSC, the Chief Justice, to the effect that there is nothing more to be said. The case is far from closed. I disagree with this "case closed" attitude, which reflects a practice, now common among public officials when their improprieties or blunders are exposed, to invite the country "to move on" and let them carry on regardless, apparently contemptuous of public disquiet.

These public officials do not even offer an apology for the blunder as a condition of moving on, as is the

case with the JLSC at the moment.

In a letter to the editor of this newspaper, Mr Kenneth Gordon supported the view that an explanation was required as to why a person who had misled the JLSC could return to the judicial bench. Mr Gordon described the chairman's dismissive attitude this way: "To dismiss the serious questions which remain unanswered by his curt, 'She has publicly articulated why she stepped down, we have issued a statement on the matter and I don't propose saying anything more about it,' is simply not good enough, Mr Chief Justice. It demonstrates indifference to public opinion on whether you are right or wrong, even where this may impact negatively on serious matters of governance."

I appear before many able and committed judges. I am therefore distressed that it should be made to appear that they are part of a poorly governed or dysfunctional system. That is at the heart of my assertion that the JLSC has inflicted reputational damage on the Judiciary. Such damage may be compounded by the "we are above all" attitude of the head of the Judiciary.

Readers will fully ap-

preciate that an apology cannot make amends for some improprieties or blunders when these have occurred in the exercise of public functions, particularly when the blunder will have lasting consequences. There has to be firm consequence management.

Reference to consequence management inevitably leads to the question whether the Judiciary is subject to any process of accountability, which for example would force an explanation of the now controversial overseas travels of the Chief Justice. Questions about those travels have been met with the same "like it or lump it attitude" displayed over the "restoration" of Mrs Ayers-Caesar to the magistracy.

Will there be more revelations about this now infamous round of appointments?

Perhaps the blunders are the result of distraction away from the administrative side of the Judiciary. One might legitimately ask who is minding the judicial store as far as administrative business is concerned?

An accountability process would also bring into the open other distressing situations such as long delayed delivery of judgments.

Provided that there is a clear reservation against any institutionally driven enquiry into the judgments of the Courts, the administrative side of the Judiciary is now in sufficiently obvious trouble that mature discussion should urgently take place to seek and establish an accountability process to govern the JLSC, probably scrutiny by a Parliamentary Committee.