



LAW ASSOCIATION OF TRINIDAD AND TOBAGO

MEDIA RELEASE

The law of contempt postulates the fundamental supremacy of law and aims to punish persons who interfere with the administration of justice. Whilst its application is wide-ranging, it is important to keep in mind that the Constitution also protects freedom of expression and freedom of the press. Fair comment on a matter of public interest is therefore allowed.

In *Ravi Balgobin-Maharaj v the Cabinet of the Republic of Trinidad and Tobago, the Privy Council*, by a majority of 3 to 2, found that the changes to sections 11 and 12 of the Municipal Corporations Act brought into effect by the Miscellaneous Provisions (Local Government Reform) Act of 2022, could not lawfully extend the terms of office of present Councillors and Aldermen from 3 years to 4 years. The reasoning behind that finding is in keeping with the principle of legislative interpretation whereby legislation does not ordinarily have a retroactive effect. In other words, the majority decision of the Privy Council is that citizens had voted Councillors in for a 3-year term, and Cabinet could not lawfully extend that term by interpreting the sections as having a retroactive effect. The Privy Council found it unnecessary to pronounce whether the postponement of the elections infringed on the constitutional rights of citizens.

The Attorney General is alleged to have said that any misrepresentation by the press of the findings of the Privy Council to the effect that the Government had usurped people's constitutional rights could border on contempt. The Attorney General alluded that neither the Court of Appeal nor any of the 5 Judges of the Privy Council had found such effect. In this, the Attorney General is correct, and he is reported to say that the Government intends to abide by the decision.

However, press commentary or public commentary, even if they do overstate or misinterpret the ruling of the Privy Council, would not be a contempt of court. Commentary on a matter of public importance, including even misleading or misinformed commentary, is protected by

freedom of expression and freedom of the press. Furthermore, commentary on the instant decision cannot interfere with the already completed Privy Council matter and, therefore, cannot have the effect of interfering with the administration of justice.

Further still, in light of the ruling of the Privy Council, public discussions surrounding whether the actions of local government bodies after the expiration of their 3-year terms are null and void are valid ones and are protected by the Constitution. The clear implications of the Privy Council's ruling are that the Government must call local government elections as soon as possible and must consider validating legislation to remedy any illegality that may have ensued as a result of the postponement of local government elections.

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